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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–0319; Airspace Docket No. 24–ASO–6]

RIN 2120–AA66

Establishment of Class E Airspace; Reidsville, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface for Rockingham County NC Shiloh Airport, Reidsville, NC to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures serving the airport.

DATES: Effective 0901 UTC, September 5, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours a day, 365 days a year.

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group,

Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone: (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it establishes Class E airspace extending upward from 700 feet above the surface for Rockingham County NC Shiloh Airport, Reidsville, NC.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA 2024–0319 in the **Federal Register** (89 FR 19517; March 19, 2024), proposing to establish Class E airspace extending upward from 700 feet above the surface for Rockingham County NC Shiloh Airport, Reidsville, NC. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

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

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 9.1-mile radius of Rockingham County NC Shiloh Airport, Reidsville, NC, providing the controlled airspace required to support the new RNAV (GPS) standard instrument approach procedures for IFR operations at the airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASO NC E5 Reidsville, NC [New]

Rockingham County NC Shiloh Airport, NC (Lat. 36°26'14" N, long. 79°51'04" W)

That airspace extending upward from 700 feet above the surface within a 9.1-mile radius of Rockingham County NC Shiloh Airport.

* * * * *

Issued in College Park, Georgia, on May 29, 2024.

Andreese C. Davis,

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

[FR Doc. 2024–12112 Filed 6–3–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2024–0298; Airspace Docket No. 24–ASO–5]

RIN 2120–AA66

Establishment of Class E Airspace; Valkaria, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface for Valkaria Airport, Valkaria, FL, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures serving the airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, September 5, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

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

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it establishes Class E airspace extending upward from 700 feet above the surface for Valkaria Airport, Valkaria, FL.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA 2024–0298 in the **Federal Register** (89 FR 19515; March 19, 2024), proposing to establish Class E airspace extending upward from 700 feet above the surface for Valkaria Airport, Valkaria, FL. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received supporting this action.

Incorporation by Reference

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

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Valkaria Airport, Valkaria, FL, providing the controlled airspace required to support the new RNAV (GPS) standard instrument approach procedures for IFR operations at the airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

Regulatory Notices and Analyses

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

Environmental Review

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

that warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASO FL E5 Valkaria, FL [New]

Valkaria Airport, FL

(Lat. 27°57'39" N, long. 80°33'30" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Valkaria Airport.

* * * * *

Issued in College Park, Georgia, on May 29, 2024.

Andreea C. Davis,

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

[FR Doc. 2024–12113 Filed 6–3–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 236

[FR–6439–F–01]

Removal of Obsolete Regulations for Section 236 of the National Housing Act

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, U.S. Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule removes HUD's obsolete regulations under the Rental and Cooperative Housing for Lower Income Families Program under section 236 of the National Housing Act ("Section 236"), as amended. HUD has determined that the provisions regulating Section 236 insured projects and Section 236 Rental Assistance Payment ("RAP") projects are obsolete and unnecessary because there are no remaining properties or projects subject to these regulations, and no new agreements are being established under these programs.

DATES: Effective July 5, 2024.

FOR FURTHER INFORMATION CONTACT:

Jennifer Lavorel, Office of Housing, Department of Housing and Urban Development, 451 7th St. SW, Room 6180, Washington, DC 20410, telephone number 202–708–1112 (this is not a toll-free number) or via email to Jennifer.C.Lavorel@hud.gov. 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:

I. Background

Created by Congress in 1968, the Section 236 (12 U.S.C. 1715z–1) program authorized HUD to subsidize the interest rate on loans on rental housing projects designed for occupancy by lower-income families for the purpose of reducing rental costs for such families. Some Section 236 loans were insured by the Federal Housing Administration (FHA) (Section 236 insured projects) and others were/are not insured by FHA but are financed under a State or local program (Section 236 non-insured projects). Section 236 insured and non-insured projects were eligible for refinancing, and HUD is authorized to continue interest reduction payments (IRP) on the successor loan as long as certain conditions, as specified in Housing Notice 2013–25, are met (Section 236 IRP projects). Section 236(n) prohibits the insurance of mortgages under Section 236 after November 30, 1983, except to permit the refinance of a mortgage insured under Section 236, or to finance pursuant to section 236(j)(3), the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under Section 236. HUD is electing not to utilize the authority provided by section 236(j)(3).

Tenants in some Section 236 projects also received Rental Assistance Payments (Section 236 RAP projects). Over the last 50 years, these loans have undergone several preservation transactions to continue serving low- and moderate-income families, such as prepayment of certain Section 236 loans subject to HUD prepayment approval, conversions to Section 8 project based assistance through the Rental Assistance Demonstration (RAD), refinancing using a Federal Housing Administration (FHA) insured mortgage program, and/or securing additional capital financing such as a Low Income Housing Tax Credit (LIHTC) award. Currently, there are no remaining Section 236 insured projects, and all Section 236 RAP contracts have either terminated or converted to Section 8 through RAD, with the RAP program considered inactive. Moreover, HUD has additional mortgage insurance and rental assistance programs available to preserve low-to-moderate income housing and assist lower income tenants.

II. This Final Rule

This final rule removes Section 236 regulations at 24 CFR part 236, subparts A, B, C, and D, because they are obsolete. Regulations in 24 CFR part 236, subparts A, B, and C, apply only to Section 236 insured projects. HUD's portfolio has no remaining Section 236 insured projects. Regulations in 24 CFR part 236, subpart D, apply only to Section 236 Rental Assistance Payments projects. HUD's portfolio has no remaining Section 236 RAP projects. Therefore, these subparts are obsolete and can be removed.

III. Justification for Final Rulemaking

In accordance with 24 CFR part 10, it is the practice of the Department to offer interested parties the opportunity to comment on proposed regulations. Part 10 provides for exceptions to the general rule if an agency, for good cause, finds that "notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1.) The removal of these regulations from the Code of Federal Regulations does not establish or affect substantive policy. This final rule removes obsolete and unnecessary regulatory provisions for programs that are no longer being funded or for operation of programs that has been transferred. Therefore, HUD finds that public notice and comment are unnecessary and contrary to the public interest.

IV. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

Executive Order 13132, Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or Tribal governments, or on the private sector, within the meaning of UMRA.

Environmental Impact

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

List of Subjects in 24 CFR Part 236

Grant programs-housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD amends 24 CFR part 236 as follows:

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

- 1. The authority citation for part 236 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715z–1, and 1735d; 42 U.S.C. 3535(d).

Subparts A through D—[Removed and Reserved]

- 2. Remove and reserve subparts A through D, consisting of §§ 236.1 through 236.765.

Julia Gordon,

Assistant Secretary for Housing—Federal Housing Commission.

[FR Doc. 2024–12199 Filed 6–3–24; 8:45 am]

BILLING CODE 4210–67–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1603

RIN 3046–AB09

Procedures for Previously Exempt State and Local Government Employee Complaints of Employment Discrimination Under Section 304 of the Government Employee Rights Act of 1991

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is amending its existing regulations by which State and local government employees who were previously exempt from coverage under title VII of the Civil Rights Act of 1964 (title VII) may bring claims of employment discrimination pursuant to the Government Employee Rights Act of 1991 (GERA). The amendments explicitly provide for digital transmission of documents, update the regulation based upon the text of other regulations or statutes, and make a number of editorial revisions to improve clarity and correct errors.

DATES: This final rule is effective on July 5, 2024.

FOR FURTHER INFORMATION CONTACT:

Kathleen Oram, Assistant Legal Counsel, at (202) 921–3240 or kathleen.oram@eoc.gov. Requests for this document in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 921–3191 (voice), (800) 669–6820 (TTY), or (844) 234–5122 (ASL Video Phone).

SUPPLEMENTARY INFORMATION: On May 19, 2023, the EEOC published a notice of proposed rulemaking (NPRM) in the **Federal Register** (88 FR 32154) seeking public comment on proposed revisions to the EEOC’s procedural regulations under section 304 of GERA, which extends protections against employment discrimination based on race, color, religion, sex, national origin, age, and disability to previously exempt State and local government employees. 42 U.S.C. 2000e–16c. The revisions are intended to serve several purposes. First, recognizing that the EEOC has expanded its use of technology in charge and complaint processing and has implemented a digital system for charges and complaints of discrimination filed with the EEOC, the revisions explicitly provide for digital transmission of documents in the GERA complaint process. Second, they include a few changes to citations to other regulations or statutes, as well as cross-references to sections within part 1603. Third, they serve to correct errors and make other clarifying changes. Public comments were due in response to the NPRM on or before July 18, 2023.

The EEOC received two comments in response to the NPRM, one anonymous and another from an advocacy organization. The comments are available for review at the Federal eRulemaking Portal at <https://www.regulations.gov>. The anonymous comment was supportive of the proposed changes, while the comment from the organization took issue with the proposal in the NPRM to remove paragraphs (b) and (c) of § 1603.107. The NPRM explained that the agency proposed to remove the two paragraphs in an effort to further standardize the EEOC’s various procedural regulations, noting that similar language had been previously removed from 29 CFR part 1601 in part for the same reason. The comment argued that because the GERA complaint procedure differs from the administrative charge procedures under title VII and other statutes enforced by the agency, the agency’s stated rationale for removal of these two paragraphs was inappropriate. The comment notes that under the title VII administrative charge process, the EEOC investigates and

either dismisses the charge with a determination that there is no cause to believe discrimination occurred or finds cause and endeavors to resolve the charge through conciliation and possibly litigation. In the case of a dismissal or a cause finding where the EEOC declines to litigate, the aggrieved party receives the right to file a private civil action. The comment then characterizes the GERA administrative complaint process, by contrast, as assigning the complaint to an administrative law judge for resolution without the opportunity for the EEOC to file suit or issue the complainant a right to private suit.

While the comment correctly notes that a portion of the administrative GERA process is different from the charge filing process under title VII and other statutes, it ignores that prior to assignment to an administrative law judge, the EEOC may conduct an investigation into the complaint, and that investigative phase of the GERA administrative process is largely based upon the administrative process for charges in 29 CFR part 1601 for other statutes enforced by the agency. Before referring a GERA complaint to an administrative law judge, EEOC staff “may conduct [an] investigation using an exchange of letters, interrogatories, fact-finding conferences, interviews, on-site visits or other fact-finding methods that address the matters at issue.” 29 CFR 1603.109(a). EEOC staff also are authorized to issue administrative subpoenas using the procedures in 29 CFR part 1601. Due to the similarity of the investigative practices utilized in GERA complaints and charges under title VII and other statutes, standardizing the procedural regulations covering these investigative practices will promote consistency and efficiency, and will minimize confusion among the EEOC personnel charged with conducting these investigations. Therefore, upon careful consideration of the comment from the advocacy organization, the EEOC declines to make changes to its proposed revisions.

While the Commission is not making changes to the proposed revisions based upon the public comments received in response to the NPRM, the final rule does reflect a terminology update. After publication of the NPRM on May 19, 2023, and after the Pregnant Workers Fairness Act (PWFA) became effective on June 27, 2023, the EEOC on February 14, 2024, published an interim final rule in the **Federal Register** (89 FR 11167) amending the agency’s procedural regulations, including those in part 1603, to add references to the PWFA and its terms. One such reference was

added to § 1603.102(a), and this final rule reflects that amendment.

Regulatory Procedures

Executive Order 12866

The Commission has complied with the principles in section 1(b) of Executive Order 12866, Regulatory Planning and Review. This rule is not a “significant regulatory action” under section 3(f) of the order and does not require an assessment of potential costs and benefits under section 6(a)(3) of the order.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden. This rule contains no new information collection requirements for the public, and therefore it will create no new paperwork burdens or modifications to existing burdens that are subject to review by the Office of Management and Budget under the PRA.

Regulatory Flexibility Act

The Commission 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 because it does not affect any small business entities. The regulation affects only certain employees of State or local governments. For this reason, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. To the extent that it affects small governments by allowing for digital transmission of documents, it will save resources of those entities. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This regulation is a rule subject to the Congressional Review Act (CRA), but not a “major” rule that cannot take effect until 60 days after it is published in the **Federal Register**. Therefore, the EEOC will submit this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the effective date of the rule.

List of Subjects in 29 CFR Part 1603

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations, Investigations, State and local governments.

Accordingly, for the reasons set forth in the preamble, the Equal Employment Opportunity Commission amends 29 CFR part 1603 as follows:

PART 1603—PROCEDURES FOR PREVIOUSLY EXEMPT STATE AND LOCAL GOVERNMENT EMPLOYEE COMPLAINTS OF EMPLOYMENT DISCRIMINATION UNDER SECTION 304 OF THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

■ 1. The authority citation for part 1603 is revised to read as follows:

Authority: 42 U.S.C. 2000e–12 and–16c; 42 U.S.C. 2000ff–6(b); 42 U.S.C. 2000gg–2(d).

■ 2. Amend § 1603.102 by:

■ a. Revising paragraphs (a), (b), (c) introductory text, (c)(1) and (2), (c)(4), and the last sentence of paragraph (d); and

■ b. In paragraph (e), in the first sentence, removing the commas.

The revisions read as follows:

§ 1603.102 Filing a complaint.

(a) *Who may make a complaint.* Individuals referred to in § 1603.101 who believe they have been discriminated against on the basis of race; color; religion; sex; national origin; age; disability; genetic information; or pregnancy, childbirth, or related medical conditions; or retaliated against for opposing any practice made unlawful by Federal laws protecting equal employment opportunity or for participating in any stage of administrative or judicial proceedings under those Federal laws, may file a complaint not later than 180 days after the occurrence of the alleged discrimination or retaliation.

(b) *Where to file a complaint.* A complaint may be filed using the Commission’s designated digital systems, in person, by facsimile, or by mail to any Commission office or with any designated agent or representative of the Commission. The addresses of the Commission’s offices may be found at www.eeoc.gov.

(c) *Contents of a complaint.* A complaint shall be in writing and signed and shall be verified as defined in § 1601.3(a). In addition, each complaint should contain the following:

- (1) The full name and contact information of the person making the complaint;
- (2) The full name and contact information of the person, governmental

entity, or political subdivision against whom the complaint is made, if known (hereinafter referred to as the respondent);

* * * * *

(4) A statement disclosing whether proceedings involving the alleged unlawful employment practice have been commenced before a State or local Fair Employment Practices (FEP) agency charged with the enforcement of fair employment practice laws and, if so, the date of such commencement and the name of the agency.

(d) * * * A complaint that has been amended after it was referred (see § 1603.103) shall not be again referred to the appropriate State or local FEP agency.

* * * * *

§ 1603.103 [Amended]

■ 3. Amend § 1603.103(b) by removing the comma.

■ 4. Revise § 1603.106 to read as follows:

§ 1603.106 Computation of time generally and for timely receipt by the Commission.

(a)(1) All time periods in this part that are stated in terms of days are calendar days unless otherwise stated.

(2) The first day counted shall be the day after the event from which the time period begins to run, and the last day of the period shall be included unless it falls on a Saturday, Sunday, or Federal holiday, in which case the period shall be extended to include the next business day.

(3) All time limits in this part are subject to waiver, estoppel, and equitable tolling.

(b) Documents submitted to the Commission are deemed timely received as follows:

(1) A document submitted by digital transmission, by facsimile not exceeding 20 pages, or by personal delivery or commercial delivery service shall be deemed timely if it is received before the expiration of the applicable filing period. A document submitted by digital means shall be deemed received on the date the EEOC's designated digital system records the upload.

(2) A document submitted by mail shall be deemed timely if it is postmarked before the expiration of the applicable filing period or, in the absence of a legible postmark, if it is received within 5 days of the expiration of the applicable filing period.

(c) For the purposes of this part, the terms *file*, *serve*, *receive*, *issue*, *transmit*, *send*, and any other word forms of these terms, such as *filing* or *serving*, when used to describe transmission of

documents, shall include all forms of digital transmission.

■ 5. Revise § 1603.107 to read as follows:

§ 1603.107 Dismissals of complaints.

(a) Where a complaint is not timely filed or, except as described in § 1603.102(e), fails to state a claim under this part, the Commission shall dismiss the complaint.

(b) Written notice of dismissal pursuant to paragraph (a) of this section shall be issued to the complainant and the respondent. The Commission hereby delegates authority to dismiss complaints to the Director, Office of Field Programs or the Director's designees, and to District Directors or their designees.

(c) A complainant who is dissatisfied with a dismissal issued pursuant to this section may appeal to the Commission in accordance with the procedures in subpart C of this part.

§ 1603.108 [Amended]

■ 6. Amend § 1603.108 by:

■ a. In paragraph (c), adding a comma after the words "employees of the Commission"; and

■ b. In paragraph (d), removing the number "584" and adding in its place the number "574".

§ 1603.109 [Amended]

■ 7. Amend § 1603.109 by:

■ a. In paragraph (a), adding the word "an" before the word "investigation" and adding a comma after the word "visits"; and

■ b. In paragraph (b), in the first sentence, adding a comma after the words "the production of evidence".

§ 1603.201 [Amended]

■ 8. Amend § 1603.201 by:

■ a. In paragraph (a), adding a comma after the words "of this section or";

■ b. In paragraph (c), removing the words "representatives or witnesses" and adding in their place the words "representatives, and their witnesses".

■ 9. Amend § 1603.202 by, in paragraph (a), adding a comma after the word "place" and revising paragraph (b) to read as follows:

§ 1603.202 Administrative law judge.

* * * * *

(b) Enter a default decision against a party failing to appear at a hearing unless the party shows good cause by contacting the administrative law judge either prior to the hearing or within 2 days after the scheduled hearing and presenting arguments as to why the

party or the party's representative could not appear; and

* * * * *

■ 10. Revise § 1603.203 to read as follows:

§ 1603.203 Unavailability or withdrawal of administrative law judges.

(a) In the event the administrative law judge designated to conduct the hearing becomes unavailable or withdraws from the adjudication, another administrative law judge may be designated for the purpose of further hearing or issuing a decision on the record as made, or both. At any time administrative law judges deem themselves disqualified, they may withdraw from an adjudication.

(b) Prior to issuance of a decision on the complaint, any party may move that the administrative law judge withdraw on the grounds of personal bias or other disqualification by filing with the administrative law judge an affidavit setting forth in detail the matters alleged to constitute grounds for withdrawal promptly upon discovery of the alleged facts. The administrative law judge shall rule upon the motion for withdrawal. If the administrative law judge concludes that the motion was filed promptly and has merit, the administrative law judge shall immediately withdraw from the adjudication. If the administrative law judge does not withdraw, the adjudication shall proceed.

■ 11. Amend § 1603.204 by revising the last sentence of paragraph (a) and paragraphs (b) and (d) to read as follows:

§ 1603.204 Ex parte communications.

(a) * * * Communications between the administrative law judge or Commission personnel and one party concerning the status of the case, the date of a hearing, the method of transmitting evidence to the Commission, and other purely procedural questions are permitted.

(b) "Decision-making personnel of the Commission" includes members of the Commission and their staffs as well as personnel in the Office of Federal Operations but does not include investigators and intake staff.

* * * * *

(d) Where it appears that a party has engaged in prohibited ex parte communications, that party may be required to show cause why, in the interest of justice, the party's claim or defense should not be dismissed, denied, or otherwise adversely affected.

§ 1603.205 [Amended]

■ 12. Amend § 1603.205(b) by removing the comma after the words "in the adjudication".

§ 1603.206 [Amended]

- 13. Amend § 1603.206 by:
 - a. In paragraph (a), in the first sentence:
 - i. Removing the words “his or her” and adding in their place the words “the administrative law judge’s”;
 - ii. Removing the comma after the words “common parties”; and
 - iii. Adding the word “common” before the word “factual”; and
 - b. In paragraph (b), removing the words “his or her” and adding in their place the words “the administrative law judge’s” and adding a comma after the word “claims”.

§ 1603.207 [Amended]

- 14. Amend § 1603.207 by:
 - a. In paragraph (b), adding the word “relevant” before the words “facts or reasons”; and
 - b. In paragraph (c), removing the text “15 days after the filing” and adding in its place the text “10 business days after service”.

§ 1603.208 [Amended]

- 15. Amend § 1603.208 by:
 - a. In paragraph (b):
 - i. In the first sentence, removing the text “ten (10)” and adding in its place the number “10”; and
 - ii. In the last sentence, removing the words “judge, in his or her discretion, orders” and adding in their place the words “judge exercises discretion to order”; and
 - b. In paragraph (c):
 - i. In the third sentence, adding the words “or other digital means” after the word “telephone”;
 - ii. In the last sentence, removing the text “five (5)” and adding in its place the number “5” and adding a comma after the word “vacate”; and
 - c. In paragraph (d), removing the words “dilatatory, repetitive or frivolous motions” and adding in their place the words “motions that are repetitive, frivolous, or intended to delay the proceedings”.
- 16. Revise § 1603.209 to read as follows:

§ 1603.209 Filing and service.

(a) Unless otherwise ordered by the administrative law judge, a signed original of each motion, brief, or other document shall be filed with the administrative law judge, with a certificate of service indicating that a copy has been sent to all other parties and stating the date and manner of service. Digitally submitted documents may be electronically signed. All

documents presented in hard copy shall be on standard size (8½ x 11) paper. Each document filed shall be clear and legible.

(b) Filing and service shall be made by first class mail or other more expeditious means of delivery, including, at the discretion of the administrative law judge, by facsimile, digital transmission, or other means. The administrative law judge may exercise discretion to limit the number of pages that may be filed or served by facsimile. Service shall be made on a party’s representative or, if not represented, on the party.

(c) Every document shall contain a caption including the parties’ names, the complaint number or docket number assigned to the matter, a designation of the type of filing (e.g., motion, brief, etc.), and the filing person’s signature and contact information.

§ 1603.210 [Amended]

- 17. Amend § 1603.210(b) by adding a comma after the word “admission”.

§ 1603.211 [Amended]

- 18. Amend § 1603.211 by:
 - a. In paragraph (a), in the last sentence, adding the word “state” before the words “the date and time”; and
 - b. In paragraph (b), in the second sentence, adding the word “also” before the words “be served upon”.

§ 1603.213 [Amended]

- 19. Amend § 1603.213 by:
 - a. In paragraph (a) introductory text, adding the words “either independently or” before the words “upon motion of a party”, and removing the words “or upon his or her own motion”;
 - b. In paragraph (a)(2), removing the word “ruling” and adding in its place the word “appeal”, and removing the word “or” and adding in its place the word “and”;
 - c. In paragraph (a)(3), removing the word “ruling” and adding in its place the word “appeal”;
 - d. In paragraph (b) introductory text, removing the text “ten (10)” and adding in its place the number “10”; and
 - e. In paragraph (c), in the last sentence, removing the text “, within his or her discretion,”.

§ 1603.214 [Amended]

- 20. Amend § 1603.214 by adding the word “that” before the words “the rules on hearsay”.

§ 1603.215 [Amended]

- 21. Amend § 1603.215 by:

- a. In paragraph (a), in the first sentence, removing the words “mechanically or stenographically reported” and adding in their place the words “audio or video recorded, stenographically reported, or both” and in the last sentence, removing the words “and the public”; and
- b. In paragraph (b), removing the comma after the words “upon motion” and removing the text “ten (10)” and adding in its place the number “10”.

§ 1603.217 [Amended]

- 22. Amend § 1603.217(b), in the last sentence, adding a semicolon after the word “discovery”.

§ 1603.301 [Amended]

- 23. Amend § 1603.301 by removing the citation “§ 1613.213” and adding in its place the citation “§ 1603.213”.
- 24. Amend § 1603.302 by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 1603.302 Filing an appeal.

* * * * *

(b) An appeal shall be filed with the Director, Office of Federal Operations, Equal Employment Opportunity Commission, by mail to P.O. Box 77960, Washington, DC 20013, by personal delivery or commercial delivery service, by digital transmission, or by facsimile to (202) 663–7022.

(c) The appellant shall furnish a copy of the appeal to the opposing party at the same time it is filed with the Commission. In or attached to the appeal to the Commission, the appellant must certify the date and method by which service was made on the opposing party.

§ 1603.303 [Amended]

- 25. Amend § 1603.303 by:
 - a. In paragraph (c) introductory text, in the second sentence, adding a comma after the word “order”;
 - b. In paragraph (c)(2), adding a comma after the word “regulation”; and
 - c. In paragraph (e), removing the words “the appeal and” and removing the citation “§ 1603.209” and adding in its place the citation “§ 1603.302(b) and (c)”.

§ 1603.306 [Amended]

- 26. Amend § 1603.306 by removing the comma after the word “resides”.

For the Commission,
Charlotte A. Burrows,
Chair.

[FR Doc. 2024–12029 Filed 6–3–24; 8:45 am]

BILLING CODE 6570–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0464]

RIN 1625–AA00

Temporary Final Rule; Little Connection Slough, Stockton, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 250-foot radius of the vessel AURORA in Little Connection Slough near Stockton, CA. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by salvage and pollution removal operations. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector San Francisco.

DATES: This rule is effective without actual notice from June 4, 2024 through 11:59 p.m. on June 30, 2024. For the purposes of enforcement, actual notice will be used from 12:01 p.m. on May 29, 2024, until June 4, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2024–0464 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, email Lieutenant (junior grade) Rubymar Sebastian, U.S. Coast Guard Sector San Francisco, Waterways Management Division; email SFWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule under authority in 5 U.S.C. 553(b)(B). This statutory 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.” The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the vessel AURORA is partially submerged within Little Connection Slough and the Coast Guard must limit vessel traffic to ensure the safety of personnel, mariners, and the environment during pollution removal operations. It is impracticable to publish an NPRM because we must establish this safety zone on May 29, 2024.

Also, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because prompt action is needed to respond to ensure the safety of personnel, mariners, and the environment while conduction pollution removal operations on the vessel AURORA.

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 San Francisco (COTP) has determined that potential hazards associated with the pollution removal operations on the vessel AURORA commencing on May 29, 2024, will be a safety concern for anyone within a 250-foot radius of operations and machinery. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the vessel AURORA is salvaged.

IV. Discussion of the Rule

This rule establishes a safety zone from 12:01 p.m. on May 29, 2024, until 11:59 p.m. on June 30, 2024. The safety zone will cover all navigable waters within 250 feet of vessels and machinery being used in the pollution removal operations on the vessel AURORA. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while pollution is being removed. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will not impact salvage operations in the Little Connection Slough. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners regarding the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and

Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry within 250 feet of vessels and machinery being used by personnel to salvage the vessel AURORA. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T11-167 to read as follows:

§ 165.T11-167 Safety Zone; Little Connection Slough, Stockton, CA.

(a) *Location.* The following area is a safety zone: All waters of Little Connection Slough, from surface to bottom, within 250 feet of the vessel AURORA at the following coordinates 38°3'29" N, 121°30'3" W. These coordinates are based on North American Datum 83 (NAD 83).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol

Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by contacting the 24-hour Command Center at telephone (415) 399-3530. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 12:01 p.m. on May 29, 2024, until 11:59 p.m. on June 30, 2024.

Dated: May 28, 2024.

Jordan M. Balduenza,

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

[FR Doc. 2024-12155 Filed 6-3-24; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 173 and 174

[Docket No. USCG-2023-0600]

RIN 1625-AC92

Digital Certificate of Number for State Numbered Vessels

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This final rule is intended to amend the Coast Guard's requirements for a Certificate of Number (CON) for vessels to allow any CON to be carried in hard copy or digital form. This aligns our current CON requirements with statutory changes made by the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023.

DATES: This final rule is effective July 5, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0600 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

This final rule with its plain-language, 100-word-or-less summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Thomas Guess, Coast Guard CG–BSX–2; telephone 206–815–0221, email Thomas.E.Guess@uscg.mil.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

NDA 2023 James M. Inhofe National Defense Authorization Act for Fiscal Year 2023
 CFR Code of Federal Regulations
 CG–BSX Office of Auxiliary and Boating Safety
 CON Certificate of Number
 DHS Department of Homeland Security
 FR Federal Register
 OMB Office of Management and Budget
 RA Regulatory analysis
 § Section
 SMEs Subject matter experts
 U.S.C. United States Code

II. Basis, Purpose, and Regulatory History

The statutory authority for this final rule can be found in 46 U.S.C. 12301 and 12304. Section 12301 states that undocumented vessels equipped with propulsion machinery on waters subject to U.S. jurisdiction must have a number issued by the proper issuing authority in the State in which the vessel is principally operated. Section 12304 describes a Certificate of Number (CON) and requires the CON to be available for inspection on the vessel when it is in operation, unless the vessel is under 26 feet and is leased or rented to another individual for noncommercial use for less than 7 days. Under 46 U.S.C. 12302, the Secretary of the Department of Homeland Security (DHS) is charged with issuing regulations to create a standard numbering system for vessels to which 46 U.S.C. chapter 123 applies, including the regulations in 33 CFR part 174. The Secretary delegated the authority to issue rules for identification

of vessels to the Coast Guard in DHS Delegation No. 00170.1(II)(92)(h), Revision No. 01.4.

Section 11506 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117–263, December 23, 2022) (NDAA 2023) amended 46 U.S.C. 12304 to permit any CON “in hard copy or digital form,” while retaining the prior requirement that any certificates issued in hard copy under this section be “pocketsized.” This amendment is effective immediately and immediately allowed boaters to choose to carry digital CONs. We expect that this provision of the NDAA 2023 will represent potential cost savings to State and territorial governments that choose to issue digital CONs. This final rule harmonizes the current regulations with the amended statute and updates the regulations to reflect the use of digital versions of CONs.

Administrative Procedure Act

The Administrative Procedure Act (APA) requires generally that agencies provide advance public notice, seek public comment, and provide a 30-day delayed effective date.¹ An agency may issue a rule without first providing the opportunity for notice and comment if the agency finds that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Notice and comment procedures are unnecessary, for example, if Congress requires non-discretionary action of an agency, leaving it without discretion to vary its action in response to the views or suggestions of commenters. *See, e.g., Metzenbaum v. Fed. Energy Regul. Comm’n.*, 675 F.2d 1282, 1284 (DCCir. 1982) (“[W]e find that the FERC order was appropriately issued without notice and comment as a nondiscretionary ministerial action.”).

The Coast Guard finds that good cause exists under 5 U.S.C. 553 to issue this final rule without notice and comment procedures. Section 11506 of the NDAA 2023 leaves the Coast Guard without discretion as it states that a CON “may be in hard copy or digital form.” Therefore, soliciting public comment on the decision to update the regulations to comport with the statutory mandate is unnecessary as acceptance of digital CONs has been taking place since 2022.

III. Background

Under section 888(a) of the Homeland Security Act of 2002 (Pub. L. 107–296), the Coast Guard has 11 statutory missions, including marine safety.

¹ 5 U.S.C. 553.

Accordingly, the Coast Guard is required to ensure safety on the nation’s waters through complementary programs of mishap prevention, search and rescue, and accident investigation. One of the many ways the Coast Guard accomplishes this marine safety mission is through its role as the coordinator of the National Recreational Boating Safety Program.

The mission of the National Recreational Boating Safety Program is to ensure that the public has a safe, secure, and enjoyable recreational boating experience by carrying out programs designed to minimize the loss of life, personal injury, and property damage, while cooperating with environmental and national security efforts. To achieve this mission, the Coast Guard’s Office of Auxiliary and Boating Safety (CG–BSX) works with Federal agencies; State and local governments; boat, engine, and associated equipment manufacturers; and non-governmental boating safety organizations to ensure that recreational boats are safely built and operated in a responsible manner.

The Coast Guard assigns boats CONs primarily for ownership verification. A CON contains the State registration information for the vessel, which allows a law enforcement officer to electronically access State-registered vessel databases and retrieve ownership and vessel information using the State-assigned number affixed to the vessel. Until 2017, all CONs issued by States to owners of recreational and State-numbered commercial vessels were issued as a paper or plastic card, measuring approximately 2½ inches by 3½ inches, per Coast Guard regulations in 33 CFR 174.25. In 2017, however, CG–BSX began allowing alternative sizing of CONs, so long as it could be folded to meet regulation size. Additionally, several States have moved to digital vehicle registration, and, in 2022, requested that the Coast Guard allow a digital, or electronically available, CON to meet the requirements of 33 CFR 173.25.

IV. Discussion of the Rule

The NDAA 2023 amended 46 U.S.C. 12304(a) to allow any CON for undocumented vessels to be in digital form, while retaining the requirement that any certificates issued in hard copy under this section be pocketsized. This final rule harmonizes the current regulations in 33 CFR parts 173 and 174 with the amendments made by the NDAA 2023.

The Coast Guard is amending 33 CFR 173.21(a) to specify that any CON can be in hard copy or digital form. The Coast

Guard is also amending 33 CFR 174.25 to allow vessels to carry any CON in a digital format, while also requiring that a hard copy be pocket-sized in place of the precise dimensions for a hard copy CON currently specified in the CFR.

V. Regulatory Analyses

We developed this final rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing Regulatory Review), and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic,

environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this final rule a significant regulatory action under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. A regulatory analysis (RA) follows.

Introduction

With this final rule, the Coast Guard intends to amend subchapter S (Boating Safety) of title 33 of the CFR. Specifically, the Coast Guard intends to amend §§ 173.21 and 174.25 to carry out the provision of NDAA 2023, codified at 46 U.S.C. 12304, allowing recreational vessel owners and operators to carry any CON in hard copy or digital form.

The Coast Guard has included in this RA an assessment of the impacts of both this final rule and the NDAA 2023

provision allowing for CONs to be carried in digital format. Since the NDAA 2023 was effective immediately, all the quantifiable economic impacts are attributable to the NDAA 2023 rather than this final rule. The Coast Guard estimates that the provision of NDAA 2023 allowing for CONs to be carried in digital format will save the regulated public and the governments of the U.S. States and territories approximately \$27 million in 2023 dollars over an 11-year period of analysis from 2023 through 2033, assuming a 2-percent discount rate. The 11-year period of analysis begins in 2023 to account for the NDAA 2023 and runs through 2033, which is 10 years after a final rule publication in 2024.

Table 1 presents an overview of both the NDAA 2023 and this final rule.

Table 1—Baseline and Change Matrix

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Baseline	Pre-NDAA 2023	NDAA 2023	Final Rule
Time Period	Before December 23, 2022	December 23, 2022	July 5, 2024
46 U.S.C. 12304(a) (excerpt)	The certificate ~~shall be pocketsized~~ , shall be at all times available for inspection on the vessel for which issued when the vessel is in operation, and may be <u>in hard copy or digital form</u> . Any certificate issued in hard copy under this section <u>shall be pocketsized</u> . The certificate shall be valid for not more than 3 years.		
33 CFR part 173 Authority Citation		Authority: 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A-25; DHS Delegation No. 00170.1, Revision No. 01.24.	
33 CFR 173.21(a)		Except as provided in §§ 173.13 and 173.17, no person may operate a vessel to which this part applies unless it has on board <u>in hard copy or digital form</u> : *****	
33 CFR 174.25		Each certificate of number must be ~~approximately 2 1/2 by 3 1/2 inches in~~ <u>hard copy or digital form</u> . Any certificate issued in hard copy under this section <u>must be pocketsized</u> .	
Description	Congressional statute (46 U.S.C. 12304(a)) required CONs to be “pocketsized” and Federal regulation (33 CFR 174.25) required CONs to be “approximately 2 1/2 by 3 1/2 inches.”	In the NDAA 2023, Congress amended statute to allow for (but not require) digital CONs. This amendment is effective immediately and immediately allowed boaters to choose to carry digital CONs.	With this final rule, the Coast Guard is harmonizing Congressional statute and Federal regulation to allow for either pocketsized hard-copy CONs or digital CONs.
Affected Population	- U.S.-flagged recreational vessel owners and operators. - State and territorial governments.	- U.S.-flagged recreational vessel owners and operators. - State and territorial governments.	- U.S.-flagged recreational vessel owners and operators.
Costs	-	No costs to the regulated public or to State and	No costs to the regulated public or to State and

		territorial governments.	territorial governments.
Cost Savings	-	\$27 million (11-year, 2% discount rate) to State and territorial governments. This equates to \$3 million in annualized cost savings.	No cost savings to the regulated public or to State and territorial governments.
Benefits	-	<i>Qualitative Benefits:</i> - Greater regulatory flexibility for recreational vessel owners to comply with CON carriage requirements by allowing them to hold digital CONs instead of hard copy CONs.	<i>Qualitative Benefits:</i> - Increased clarity from harmonizing regulations with statute.

Note: An underline (example) indicates text that has been added. A strikethrough (~~example~~) indicates text that has been removed.

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The rest of this RA is as follows: the next section discusses the affected population, cost, costs savings, and benefits of the relevant NDAA 2023 provision. The third section discusses the affected population, cost, costs savings, and benefits of this final rule. In the fourth and final section of this RA, we assess regulatory alternatives.

Economic Impact of the Relevant NDAA 2023 Provision

Affected Population of the Relevant NDAA 2023 Provision

The affected population for the relevant NDAA 2023 provision includes

all U.S. recreational boating vessel owners, as well as State and territorial governments.

As of 2022, there were 11,770,383 registered recreational vessels in the U.S., according to the Coast Guard's most recent recreational boating statistics report.² To estimate the total affected population over the 11-year

² Data come from table 36 of U.S. Coast Guard, 2022 Recreational Boating Statistics, obtained on June 26, 2023, <https://www.uscgboating.org/library/accident-statistics/Recreational-Boating-Statistics-2022.pdf>; accessed June 26, 2023. This version, published May 25, 2023, was the most recent version of the data available at the time of this writing.

period of analysis, the Coast Guard reviewed the registered recreational vessel count from 2017 to 2022. We found that the average year-to-year growth rate in recreational vessel registrations was approximately 0 percent (see table 2).³ Therefore, we assume that the population of registered recreational vessels will not change for the duration of the period of analysis.

³ Data come from table 36 of U.S. Coast Guard, 2022 Recreational Boating Statistics, obtained on June 26, 2023, <https://www.uscgboating.org/library/accident-statistics/Recreational-Boating-Statistics-2022.pdf>; accessed June 26, 2023.

TABLE 2—U.S.-REGISTERED RECREATIONAL VESSEL GROWTH FROM 2017 TO 2022

Year	Vessels registered	Growth rate
	(a)	(b) = [(a) ÷ (a) of prior year – 1] × 100 (%)
2017	11,961,568	.....
2018	11,852,969	– 0.91
2019	11,878,542	0.22
2020	11,838,188	– 0.34
2021	11,957,886	1.01
2022	11,770,383	– 1.57
Average	11,876,589	– 0.32

Costs of the Relevant NDAA 2023 Provision

The Coast Guard does not anticipate any costs from the relevant NDAA 2023 provision because this provides greater regulatory flexibility and does not impose a new prescriptive requirement.

Cost Savings of the Relevant NDAA 2023 Provision

The Coast Guard expects that the relevant amendment to 46 U.S.C. 12304 in the NDAA 2023 will result in cost savings for the governments of both U.S. States and territories. These cost savings come from avoiding the printing and mailing costs for hard copy CONs.

To estimate the cost savings, we first determine the expected number of CONs issued digitally⁴ for each year,

either during initial registration of a recreational vessel or as a renewal of registration.⁵ This calculation requires the following components:

- (1) The weighted-average period of validity for recreational vessel certificates across all U.S. States and territories;
- (2) The rate of smartphone use among the U.S. recreational boating population; and
- (3) The rate of digital CON use among smartphone-owning recreational vessel owners.

The Coast Guard expects that the period of validity will be the same regardless of whether a State or territory issues a hard copy CON or a digital CON. We assume that all governmental jurisdictions, which are responsible for

issuing certificates and enforcing regulatory requirements relating to certificates, will allow for both forms of certification.⁶

Based on a survey done by Coast Guard subject matter experts (SMEs) within CG–BSX, the Coast Guard determined that the average period of validity for certificates is 2.46 years, weighted by the share of the boating population in each jurisdiction.

Next, we calculated the total number of certificates, which we expect will be renewed each year, by dividing the vessel population of 11.77 million by the weighted average period of validity of 2.46 years. We obtained a value of 4.8 million vessels. This is shown in table 3.

TABLE 3—AVERAGE NUMBER OF CONS RENEWED ANNUALLY

Current number of registered recreational vessels	Average period of validity (years)	Average number of CONS renewed annually
(a)	(b)	(c) = (a) ÷ (b)
11,770,383	2.46	4,784,709

After obtaining the expected number of renewed certificates for each year, we multiplied that value by the recreational boating population’s smartphone-use rate to determine the average number of certificates that could be renewed digitally each year because the vessel

owner owns a smartphone. Using information from an online data platform on the use rate among the general U.S. population, we obtained an estimated smartphone use rate of 72.7 percent among the U.S. recreational boating population.⁷⁸ We hold this

smartphone-use rate constant throughout the period of analysis, since the rate of change for smartphone adoption has diminished significantly and has trended towards a 0-percent change in recent years (see table 4).⁹

⁴ The Coast Guard expects that State and territorial governments will issue digital CONs and make them accessible to smartphone or tablet users through a downloadable licensing application or a mobile-friendly web page. We do acknowledge that jurisdictions may choose to issue digital CONs through other methods. For the purposes of this RA, the particular method by which jurisdictions issue digital CONs does not impact the cost savings calculations. Any digitally issued CON, regardless of issuance method, will result in cost savings from avoided printing and mailing costs.

⁵ Since the growth rate of the registered recreational vessel population is 0 percent, we

assume that the number of new registrations is offset by the number of registered vessels that have not renewed certificates.

⁶ “All governmental jurisdictions” refers to U.S. States and territories.

⁷ Petroc Taylor, “Smartphone Penetration Rate as a Share of the Population in the United States from 2010 to 2021,” n.d., Statista, obtained on June 15, 2023, accessed on June 15, 2023, <https://www.statista.com/statistics/201183/forecast-of-smartphone-penetration-in-the-us/> (“Smartphone Penetration Data”).

⁸ The Coast Guard does not have reason to believe that the U.S. recreational boating population is

significantly different from the general U.S. population regarding smartphone use.

⁹ Smartphone Penetration Data, *supra* note 7. The online data platform used survey data from a market research firm that examined smartphone penetration rates from 2010 to 2018. The smartphone penetration rate is defined as the share of the U.S. population who own at least one smartphone and use the smartphone(s) at least once a month. Penetration rates for 2018 to 2021 are projections from analysts with the data platform, and not the Coast Guard.

TABLE 4—SMARTPHONE PENETRATION RATE FROM 2016 TO 2021

Year	Penetration rate	Growth rate
	(a) (%)	(b) = [(a) ÷ (a) of prior year – 1] × 100 (%)
2016	63.9	.....
2017	67.3	5.3
2018	69.6	3.4
2019	71.4	2.6
2020	72.2	1.1
2021	72.7	0.7

We estimated that an average number of 3.5 million CONs could be renewed digitally each year. However, not all vessel owners with smartphones will

use a digital CON. Coast Guard SMEs within CG–BSX estimated that the digital CON adoption rate will be around 50 percent. This means that 1.7

million CONs will likely be digitally renewed each year. This is shown in table 5, which uses data from table 3.

TABLE 5—AVERAGE ANNUAL NUMBER OF VESSELS RENEWING DIGITALLY

Average number of CONs renewed annually	Smartphone penetration rate	Avg number of CONs eligible for renewal digitally	Digital CON adoption rate among smartphone-owning vessel owners	Avg number of CONs renewed digitally (rounded up)
(c)	(d)	(e) = (c) × (d)	(f)	(g) = (e) × (f)
4,784,709	72.7%	3,478,483	50%	1,739,242

State and territorial issuing authorities incur costs associated with printing and mailing hard copy CONs. According to Coast Guard SMEs within

CG–BSX, the average printing and mailing cost to issuing authorities is approximately \$1.50 per application.

By avoiding printing and mailing replacement hard copy CONs, we expect

that State and territorial governments will save approximately \$2.6 million annually. This is shown in table 6, which uses data from table 5.

TABLE 6—ANNUAL UNDISCOUNTED COST SAVINGS TO STATE AND TERRITORIAL GOVERNMENTS

Avg number of CONs renewed digitally	Hard copy CON printing and mailing cost	Total saved
(g)	(h)	(i) = (g) × (h)
1,739,242	\$1.50	\$2,608,863

We present the cost savings to State and territorial governments in table 7, using discount rates of 2 percent.

TABLE 7—COST SAVINGS TO STATE AND TERRITORIAL GOVERNMENTS

Year	Discounted (2%)	Undiscounted
1 (2023)	\$2,661,040	\$2,608,863
2 (2024)	2,608,863	2,608,863
3 (2025)	2,557,709	2,608,863
4 (2026)	2,507,558	2,608,863
5 (2027)	2,458,390	2,608,863
6 (2028)	2,410,186	2,608,863
7 (2029)	2,362,928	2,608,863
8 (2030)	2,316,596	2,608,863
9 (2031)	2,271,172	2,608,863
10 (2032)	2,226,39	2,608,863
11 (2033)	2,182,980	2,608,863
Total	26,564,061	28,697,493
Annualized	2,608,863	.....

Qualitative Benefits of the Relevant NDAA 2023 Provision

The provision of the NDAA 2023 allowing for digital CONs provides a qualitative benefit by allowing recreational vessel owners the flexibility of complying with CON carriage requirements with a digital CON instead of a hard copy CON.

Economic Impact of the Final Rule

Affected Population of This Final Rule

The affected population for this final rule includes all U.S. recreational boating vessel owners. As stated before, we assume that in 2022, there were 11,770,383 registered recreational vessels, and that the population of registered recreational vessels will not

change for the duration of the period of analysis.

Costs of This Final Rule

The Coast Guard does not anticipate any costs from this final rule.

Cost Savings of This Final Rule

The Coast Guard does not anticipate any cost savings from this final rule.

Qualitative Benefits of This Final Rule

This final rule provides one qualitative benefit by harmonizing the Coast Guard's regulations with the relevant statutory authority.

Alternatives

As stated earlier in this preamble and the regulatory text, the NDAA 2023 is a legislatively mandated law promulgated by Congress. Hence, the Coast Guard

does not have any discretionary action upon its enactment. The Coast Guard is promulgating this final rule to ensure that CFR regulations are harmonized with the NDAA 2023. Therefore, no alternatives were considered for this rulemaking.

B. Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, requires Federal agencies to consider the potential impact on small entities when they issue a rule after being required to first publish a general notice of proposed rulemaking. Under 5 U.S.C. 604(a), an agency must provide a regulatory flexibility analysis after being required to publish a general notice of proposed rulemaking under 5 U.S.C. 553. Because section 11506 of the NDAA 2023 provides the Coast Guard no discretion in accepting a digital CON, we are not required to publish a notice of a proposed rulemaking pursuant to 5 U.S.C. 553(b)(B). Accordingly, no regulatory flexibility analysis is required under 5 U.S.C. 604(a) and we did not conduct one for this rule.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If this final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this final rule. 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.

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).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

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

In accordance with 46 U.S.C. 12301 and 12304, an undocumented vessel, including a State-numbered commercial vessel, which is equipped with propulsion machinery and operating on waters subject to U.S. jurisdiction, must have on board a valid CON. Under 46 U.S.C. 12302, the Coast Guard is charged with issuing Federal regulations to create a standard numbering system for these vessels. As long as the States issue CONs that are consistent with the standard numbering system, the States are permitted to be the issuing authority. This final rule is consistent with this longstanding Federal-State vessel numbering mechanism established by Congress and, therefore, also with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

F. Unfunded Mandates

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. Although this final rule will not result in such expenditure and does not constitute a discretionary regulatory action, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this final rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This final rule is not an economically significant rule under Executive Order 12866, as amended by Executive Order 14094, and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This final rule does not have Tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will 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.

K. Energy Effects

We have analyzed this final rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866, as amended by Executive Order 14094, and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this final rule under DHS Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental

Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. This final rule meets the criteria for categorical exclusions L57 in Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev 1. Categorical exclusion L57 pertains to regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels.

This final rule involves conforming current regulations to the amended statute and updating the regulations to allow digital versions of any CON. We seek any comments or information that may lead to the discovery of a significant environmental impact from this final rule.

List of Subjects

33 CFR Part 173

Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 173 and 174 as follows:

PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

- 1. The authority citation for part 173 is revised to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A–25; DHS Delegation No. 00170.1, Revision No. 01.4.

- 2. Amend § 173.21 by revising paragraph (a) introductory text to read as follows:

§ 173.21 Certificate of number required.

(a) Except as provided in §§ 173.13 and 173.17, no person may operate a vessel to which this part applies unless they have on board in hard copy or digital form:

* * * * *

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

- 3. The authority citation for part 174 is revised to read as follows:

Authority: 46 U.S.C. 6101 and 12302; DHS Delegation No. 00170.1, Revision No. 01.4.

- 4. Revise § 174.25 to read as follows:

§ 174.25 Size of certificate of number.

Each certificate of number must be in hard copy or digital form. Any certificate issued in hard copy under this section must be pocket-sized.

Dated: May 29, 2024.

W.R. Arguin,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

[FR Doc. 2024–12201 Filed 6–3–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Parts 207 and 326

RIN 0710–AB54

Civil Monetary Penalty Inflation Adjustment Rule

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is issuing this final rule to adjust its civil monetary penalties (CMP) under the Rivers and Harbors Appropriation Act of 1922 (RHA), the Clean Water Act (CWA), and the National Fishing Enhancement Act (NFEA) to account for inflation.

DATES: This final rule is effective on June 4, 2024.

FOR FURTHER INFORMATION CONTACT: For the RHA portion, please contact Mr.

Joseph R. Wilson, 202–761–7697 or by email at joseph.r.wilson@usace.army.mil, or for the CWA and NFEA portion, please contact Mr. Matt Wilson 202–761–5856 or by email at Matthew.S.Wilson@usace.army.mil or access the Corps Regulatory Home Page at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/>.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, codified at 28 U.S.C. 2461, note, as amended, requires agencies to annually adjust the level of CMP for inflation to improve their effectiveness and maintain their deterrent effect, as required by the Federal Civil Penalties Adjustment Act Improvements Act of 2015, Public Law 114–74, sec. 701, November 2, 2015 (“Inflation Adjustment Act”).

With this rule, the new statutory maximum penalty levels listed in Table 1 will apply to all statutory civil penalties assessed on or after the effective date of this rule. Table 1 shows the calculation of the 2024 annual inflation adjustment based on the guidance provided by the Office of Management and Budget (OMB) (see December 19, 2023, Memorandum for the Heads of Executive Departments and Agencies, Subject: Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015). The OMB provided to agencies the cost-of-living adjustment multiplier for 2024, based on the Consumer Price Index for All Urban Consumers (CPI–U) for the month of October 2023, not seasonally adjusted, which is 1.03241. Agencies are to adjust “the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment.” For 2024, agencies multiply each applicable penalty by the multiplier, 1.03241, and round to the nearest dollar. The multiplier should be applied to the most recent penalty amount, *i.e.*, the one that includes the 2023 annual inflation adjustment.

TABLE 1

Citation	Civil Monetary Penalty (CMP) amount established by law	2023 CMP amount in effect prior to this rulemaking	2024 Inflation adjustment multiplier	CMP amount as of June 4, 2024
Rivers and Harbors Act of 1922 (33 U.S.C. 555).	\$2,500 per violation	\$6,756 per violation	1.03241	\$6,975 per violation.
CWA, 33 U.S.C. 1319(g)(2)(A)	\$10,000 per violation, with a maximum of \$25,000.	\$25,848 per violation, with a maximum of \$64,619.	1.03241	\$26,686 per violation, with a maximum of \$66,713.

TABLE 1—Continued

Citation	Civil Monetary Penalty (CMP) amount established by law	2023 CMP amount in effect prior to this rulemaking	2024 Inflation adjustment multiplier	CMP amount as of June 4, 2024
CWA, 33 U.S.C. 1344(s)(4)	Maximum of \$25,000 per day for each violation.	Maximum of \$64,619 per day for each violation.	1.03241	Maximum of \$66,713 per day for each violation.
National Fishing Enhancement Act, 33 U.S.C. 2104(e).	Maximum of \$10,000 per violation	Maximum of \$28,304 per violation	1.03241	Maximum of \$29,221 per violation.

Section 4 of the Inflation Adjustment Act directs federal agencies to publish annual penalty inflation adjustments. In accordance with section 553 of the Administrative Procedures Act (APA), many rules are subject to notice and comment and are effective no earlier than 30 days after publication in the **Federal Register**. Section 4(b)(2) of the Inflation Adjustment Act further provides that each agency shall make the annual inflation adjustments “notwithstanding section 553” of the APA. According to the December 2023 OMB guidance issued to Federal agencies on the implementation of the 2024 annual adjustment, the phrase “notwithstanding section 553” means that, “the public procedure the APA generally requires—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.” Consistent with the language of the Inflation Adjustment Act and OMB’s implementation guidance, this rule is not subject to notice and opportunity for public comment or a delay in effective date. This rule adjusts the value of current statutory civil penalties to reflect and keep pace with the levels originally set by Congress when the statutes were enacted, as required by the Inflation Adjustment Act. This rule will apply prospectively to penalty assessments beginning on the effective date of this final rule.

Regulatory Procedures
Plain Language

In compliance with the principles in the President’s Memorandum of June 1, 1998, regarding plain language, this preamble is written using plain language. The use of “we” in this notice refers to the Corps and the use of “you” refers to the reader. We have also used the active voice, short sentences, and common everyday terms except for necessary technical terms.

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review”

This rule is not designated a “significant regulatory action” under Executive Order 12866 and OMB determined this rule to not be significant. Moreover, this final rule makes nondiscretionary adjustments to existing CMP in accordance with the Inflation Adjustment Act and OMB guidance. The Corps, therefore, did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule.

Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

The Department of Defense determined that provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements. This action merely increases the level of statutory civil penalties that could be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of Corps-administered statutes and implementing regulations.

Executive Order 13132, “Federalism”

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will not have a substantial effect on State and local governments.

Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. Chapter 6)

The Assistant Secretary of the Army (Civil Works) certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Because notice of proposed rulemaking and opportunity for comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act are inapplicable. Therefore, the Regulatory Flexibility Act, as amended, does not require the Corps to prepare a regulatory flexibility analysis.

Unfunded Mandates Reform Act (2 U.S.C. Chapter 25)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule the mandates of which require spending in any year of \$100 million in 1995 dollars, updated annually for inflation. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Public Law 104–113, “National Technology Transfer and Advancement Act (15 U.S.C. Chapter 7)

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, (15 U.S.C. 272 note), directs us to use voluntary consensus standards in our regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. This rule does not involve technical standards. Therefore, we did not consider the use of any voluntary consensus standards.

Executive Order 13045, “Protection of Children From Environmental Health Risks and Safety Risks”

Executive Order 13045 applies to any rule that: (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or

safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the rule on children, and explain why the regulation is preferable to other potentially effective and reasonably feasible alternatives. This rule is not subject to this Executive Order because it is not economically significant as defined in Executive Order 12866. In addition, it does not concern an environmental or safety risk that we have reason to believe may have a disproportionate effect on children.

Executive Order 13175, “Consultation and Coordination With Indian Tribal Governments”

Executive Order 13175 requires agencies to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” The phrase “policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.” This rule does not have tribal implications. The rule imposes no new substantive obligations on tribal governments. Therefore, Executive Order 13175 does not apply to this rule.

Public Law 104–121, “Congressional Review Act,” (5 U.S.C. Chapter 8)

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

Executive Order 12898, “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations”

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin. This rule merely adjusts civil penalties to account for inflation, and therefore, is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities.

Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”

This rule is not a “significant energy action” as defined in Executive Order 13211 because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects

33 CFR Part 207

Navigation (water), Penalties, Reporting and recordkeeping requirements, and Waterways.

33 CFR Part 326

Administrative practice and procedure, Intergovernmental relations, Investigations, Law enforcement, Navigation (Water), Water pollution control, and Waterways.

Approved by:
Michael L. Connor,
Assistant Secretary of the Army (Civil Works).

For the reasons set out in the preamble, title 33, chapter II, part 207 of

the Code of Federal Regulations is amended as follows:

PART 207—NAVIGATION REGULATIONS

- 1. The authority citation for part 207 continues to read as follows:

Authority: 33 U.S.C. 1; 33 U.S.C. 555; 28 U.S.C. 2461 note.

- 2. Amend § 207.800 by revising paragraph (c)(2) to read as follows:

§ 207.800 Collection of navigation statistics.

* * * * *

(c) * * *

(2) In addition, any person or entity that fails to provide timely, accurate, and complete statements or reports required to be submitted by the regulation in this section may also be assessed a civil penalty of up to \$6,975 per violation under 33 U.S.C. 555, as amended.

* * * * *

PART 326—ENFORCEMENT

- 3. The authority citation for part 326 continues to read as follows:

Authority: 33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; 33 U.S.C. 1413; 33 U.S.C. 2104; 33 U.S.C. 1319; 28 U.S.C. 2461 note.

- 4. Amend § 326.6 by revising paragraph (a)(1) to read as follows:

§ 326.6 Class I administrative penalties.

(a) * * *

(1) This section sets forth procedures for initiation and administration of Class I administrative penalty orders under Section 309(g) of the Clean Water Act, judicially-imposed civil penalties under Section 404(s) of the Clean Water Act, and Section 205 of the National Fishing Enhancement Act. Under Section 309(g)(2)(A) of the Clean Water Act, Class I civil penalties may not exceed \$26,686 per violation, except that the maximum amount of any Class I civil penalty shall not exceed \$66,713. Under Section 404(s)(4) of the Clean Water Act, judicially-imposed civil penalties may not exceed \$66,713 per day for each violation. Under Section 205(e) of the National Fishing Enhancement Act, penalties for violations of permits issued in accordance with that Act shall not exceed \$29,211 for each violation.

TABLE 1 TO PARAGRAPH (a)(1)

Environmental statute and U.S. code citation	Statutory civil monetary penalty amount for violations that occurred after November 2, 2015, and are assessed on or after June 4, 2024
Clean Water Act (CWA), Section 309(g)(2)(A), 33 U.S.C. 1319(g)(2)(A)	\$26,686 per violation, with a maximum of \$66,713.
CWA, Section 404(s)(4), 33 U.S.C. 1344(s)(4)	Maximum of \$66,713 per day for each violation.
National Fishing Enhancement Act, Section 205(e), 33 U.S.C. 2104(e)	Maximum of \$29,221 per violation.

* * * * *

[FR Doc. 2024–12239 Filed 6–3–24; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–CAHA–NPS37329; Docket No. NPS–2023–0003; 233P103601–PPSECAHASO–PPMPSPD1Z.YM0000]

RIN 1024–AE83

Cape Hatteras National Seashore; Bicycling

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service amends the special regulations for Cape Hatteras National Seashore to allow for bicycle use on an approximately 1.6-mile multi-use pathway in the Hatteras Island District of the Seashore.

DATES: This rule is effective July 5, 2024.

ADDRESSES: Docket: The comments received on the proposed rule and an economic analysis are available on www.regulations.gov in Docket No. NPS–2023–0003. Document Availability: The Construct Multi-use Pathway in Hatteras Island District Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and related project documents provide information and context for this rulemaking and are available online at <https://parkplanning.nps.gov/caha> by clicking the link entitled “Construct Multi-Use Pathway in Hatteras Island District” and then clicking the link entitled “Document List.” FOR FURTHER INFORMATION CONTACT: David Hallac, Superintendent, Cape Hatteras National Seashore; (252) 473–2111; david_hallac@nps.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered

within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Purpose and Significance of Cape Hatteras National Seashore

In 1937, Congress authorized the establishment of Cape Hatteras National Seashore. Located in the Outer Banks in Dare County, North Carolina, the Seashore consists of more than 30,000 acres distributed along approximately 75 miles of ocean-facing shoreline. The purpose of the Seashore is to permanently preserve the wild and primitive character of the ever-changing barrier islands, protect the diverse plant and animal communities sustained by coastal island processes, and provide for recreational use and enjoyment that is compatible with preserving the distinctive natural and cultural resources of the Nation’s first national seashore.

Located within a day’s drive of several urban centers, the Seashore is a popular vacation destination that receives approximately three million visitors each year. Stretching about 75 miles from north to south, the Seashore encompasses Bodie, Hatteras, and Ocracoke islands, which are linked by North Carolina Highway 12 (NC12) and the Hatteras Inlet Ferry. Nine villages, including Nags Head, Rodanthe, Waves, Salvo, Avon, Buxton, Frisco, Hatteras, and Ocracoke, are located adjacent to or within the Seashore. Popular visitor activities include beachcombing, swimming, fishing, hiking, camping, and learning about the history and natural features of the unique barrier islands. Visitors can access the northern entrance via roadways and the southern entrance by ferry or air travel. The Seashore encompasses a mix of land uses with villages, residences, commercial uses, tourist attractions, and nationally important resources within and adjacent to NPS-managed areas.

Bicycle Use in the Seashore

Bicycle use has occurred in the Seashore for several decades. Bicycles are allowed on roads and in parking areas that are open to public motor

vehicle traffic. Bicycle use is not allowed on any trails or pathways within the Seashore. Public roads and parking areas that are open to traditional bicycles are open to electric bicycles, which are defined in NPS regulations as two- or three-wheeled cycles with fully operable pedals and electric motors of not more than 750 watts that meet the requirements of one of three classes. See the definition of “electric bicycle” in 36 CFR 1.4(a).

New Multi-Use Pathway

Connectivity within and near the Seashore is important for realizing one purpose of the Seashore to provide access and opportunities for the benefit and enjoyment of visitors. The Seashore’s 1984 General Management Plan (GMP) recognized the need for a “bikeway” within the Seashore and identified the area adjacent to Lighthouse Road as an appropriate location that would provide access from NC12 and the village of Buxton to popular visitor use areas within the Cape Hatteras Lighthouse District. Multiple modes of transportation use the Lighthouse Road corridor. These include passenger, recreational, and camping vehicles, as well as pedestrians and bicyclists, who either share the paved road with motor vehicles or use the grassy shoulders along the road. Although the shoulders are wide enough to physically accommodate pedestrians and bicyclists for most of Lighthouse Road, there is no designated and safe pathway for these groups of visitors.

In May 2022 the NPS initiated a 30-day public scoping process to inform the development of plans to construct a multi-use, paved pathway adjacent to Lighthouse Road, consistent with the recommendation in the GMP. Following the public scoping period, in February 2023 the NPS published the EA to analyze the potential environmental consequences of no-action and action alternatives. Under the action alternative, which is the NPS’s preferred alternative, the NPS would construct a 10–12-foot-wide paved multi-use pathway in two phases. The pathway would be physically separated from but adjacent to Lighthouse Road, and then extend away from the road to the

Trailhead at Cape Hatteras Lighthouse in one direction, and to the Trailhead at Buxton Beach Access in the other direction. The total length of the pathway would be approximately 1.6 miles. The project would include wayfinding signage, benches, bollards, and the reconfiguration of the Seashore entrance at the start of the pathway, including intersection improvements and connections to local sidewalks.

In addition to evaluating the potential consequences of constructing the pathway, the EA also evaluated the potential impacts of allowing bicycles and electric bicycles on the pathway. The EA evaluated the suitability of the trail surface and soil conditions for accommodating bicycle use; and life cycle maintenance costs, safety considerations, methods to prevent or minimize user conflict, and methods to protect natural and cultural resources and mitigate impacts associated with bicycle use.

The NPS accepted public comments on the EA for 30 days. In May 2023 following a recommendation by the Superintendent of the Seashore, the Regional Director for Interior Region 2, South Atlantic—Gulf, signed the FONSI identifying the action alternative in the EA as the selected alternative. As stated in the FONSI, the NPS believes the action alternative will greatly improve the quality of the experience for visitors travelling along Lighthouse Road by constructing a safe, resilient, and accessible off-road pathway for pedestrians and bicyclists. The NPS expects to complete construction of phase one of the pathway in the spring of 2024.

Summary of Public Comments

The NPS published a proposed rule in the **Federal Register** on October 19, 2023 (88 FR 72010). The NPS accepted public comments on the proposed rule for 60 days via the mail, hand delivery, and the Federal eRulemaking Portal at <https://www.regulations.gov>. Comments were accepted through December 18, 2023. The NPS received one comment on the proposed rule. The comment supported bicycle use on the new pathway. After considering the public comment and after additional review, the NPS did not make any changes in the final rule.

Final Rule

This rule implements part of the selected alternative in the FONSI by authorizing the Superintendent of the Seashore to allow bicycles on an approximately 1.6-mile multi-use pathway within the Hatteras Island District of the Seashore. This

rulemaking complies with NPS regulations at 36 CFR 4.30, which state that special regulations are required to designate new bicycle trails outside of developed areas. The rule adds a new paragraph (d) to 36 CFR 7.58, which contains existing special regulations for the Seashore. After the pathway is constructed, the Superintendent can designate the pathway for bicycle use by notifying the public through one or more of the methods listed in 36 CFR 1.7. The Superintendent will be required to list the pathway as open to bicycle use in the Superintendent's compendium, which is a written compilation of designations, closures, permit requirements and visitor use restrictions that is available on the Seashore's website (<https://www.nps.gov/caha>). Maps showing the pathway as open to bicycle use will be available at Seashore visitor centers and on the Seashore's website. Finally, the rule states that the Superintendent may limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions. This can occur after the Superintendent considers public health and safety, resource protection, and other management activities and objectives, as stated in 36 CFR 4.30(f). This rulemaking will not affect the use of any existing trails or pathways in the Seashore, all of which will remain closed to bicycle use.

NPS regulations at 36 CFR 4.30(i) give superintendents the discretionary authority to allow electric bicycles on park roads, parking areas, and administrative roads and trails that are otherwise open to bicycles. After the pathway is constructed, the Superintendent may designate it open to traditional bicycles as explained above. At that time, the Superintendent also can designate the pathway as open to some or all classes of electric bicycles. If, in the future, the Superintendent determines that electric bicycles or certain classes of electric bicycles should no longer be allowed on the pathway, or that conditions for use should change, the Superintendent can make such changes by updating the Superintendent's compendium and providing adequate public notice under 36 CFR 1.7.

Compliance With Other Laws, Executive Orders and Department Policy

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

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

Executive Order 14094 amends Executive Order 12866 and reaffirms the principles of Executive Order 12866 and Executive Order 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and be consistent with Executive Order 12866, Executive Order 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law.

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

Regulatory Flexibility Act

This rulemaking would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled "Cost-Benefit and Regulatory Flexibility Threshold Analyses: Special Regulations to Designate a New Multi-Use Pathway for Bicycle Use at Cape Hatteras National Seashore." The report may be viewed on the seashore's planning website at the uniform

resource locator (URL) listed in **ADDRESSES**.

Congressional Review Act (CRA)

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

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

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

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

Unfunded Mandates Reform Act

This rulemaking does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The rulemaking does not have a significant or unique effect on State, local or Tribal governments or the private sector. It addresses public use of national park lands and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rulemaking does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rulemaking does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rulemaking only affects use of federally administered lands and waters. It has no direct effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rulemaking complies with the requirements of Executive Order 12988. This rulemaking:

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

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

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

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. The NPS has evaluated this rulemaking under the criteria in Executive Order 13175 and under the Department's Tribal consultation policy and has determined that Tribal consultation is not required because the rulemaking will have no substantial direct effect on federally recognized Indian Tribes. Nevertheless, in support of the Department of the Interior's and the NPS's commitment to government-to-government consultation, during the EA process, the NPS sent early notification letters to Tribal partners to invite participation in the planning process. The Tribes are the Absentee Shawnee Tribe, the Catawba Indian Nation, the Eastern Shawnee Tribe, the Shawnee Tribe, and the United Keetoowah Band of Cherokee Indians. The NPS notified the Tribes of the project through correspondence dated May 20, 2022, and received a response from the Catawba Indian Nation in a letter dated July 7, 2022. The Catawba Indian Nation requested to be notified if Native American artifacts or human remains are located during the ground disturbance phase of the project.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The NPS has prepared the EA to determine whether this rulemaking will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. This rulemaking would not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because of the FONSI. The EA contains a full description of the purpose and need for taking action, the alternatives considered, a map of the affected area, and the environmental

impacts associated with the project. A copy of the EA and FONSI can be found online at the URL listed in **ADDRESSES**.

Effects on the Energy Supply (Executive Order 13211)

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

List of Subjects in 36 CFR Part 7

National parks, Reporting and Recordkeeping requirements.

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

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

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

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

■ 2. Amend § 7.58 by adding paragraph (d) to read as follows:

§ 7.58 Cape Hatteras National Seashore.

* * * * *

(d) *Bicycle Use.* (1) The Superintendent may designate all or a portion of the following trails as open to bicycle use:

(i) Multi-use pathway in the Hatteras Island District (approximately 1.6 miles).

(ii) [Reserved]

(2) Maps showing the pathway as open to bicycle use will be available at Seashore visitor centers and posted on the Seashore website. The Superintendent will provide notice that the pathway is open to bicycle use in accordance with § 1.7 of this chapter, including in the superintendent's compendium (or written compilation) of discretionary actions referred to in 36 CFR 1.7(b).

(3) The Superintendent may limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions in accordance with § 4.30 of this chapter. A violation of any

such limit, restriction, condition, or closure is prohibited.

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2024–12204 Filed 6–3–24; 8:45 am]

BILLING CODE 4312–52–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 9

[PS Docket Nos. 15–80, 13–75; ET Docket No. 04–35; FCC 22–88; FR ID 223373]

Disruptions to Communications; Improving 911 Reliability

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of compliance date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved information collections for the requirement that covered 911 service providers notify the Commission no later 60 days after they completely cease operations. This information collection requirement was adopted in the 2022 Second Report and Order, to assist the Commission in conserving resources, in that the Commission will not need to expend time investigating why a provider has failed to file its annual 911 reliability certification in a timely manner, when the reason is simply because the provider is no longer a provider. These rule changes resulted in modified information collection requirements under the Paperwork Reduction Act (PRA) that required OMB approval. The Commission also announces that compliance with the rules is now required. This document is consistent with the 2022 Second Report and Order, which states the Commission will publish a document in the **Federal Register** announcing a compliance date for the rule section and revise the rule accordingly.

DATES: *Compliance date:* Compliance with 47 CFR 9.19(d)(4), published at 88 FR 9765, on February 15, 2023, is required as of July 5, 2024.

FOR FURTHER INFORMATION CONTACT: Linda Pintro of the Public Safety and Homeland Security Bureau, Policy and Licensing Division, at (202) 418–7490 or Linda.Pintro@fcc.gov. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to PRA@fcc.gov or contact Nicole Ongele, Office

of Managing Director, Performance Management, 202–418–2991, or by email to PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: This document announces that OMB approved the information collection requirement in 47 CFR 9.19(d)(4) on November 15, 2023.

The Commission publishes this document as an announcement of the compliance date of the rule.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on November 15, 2023, for the information collection requirements contained in § 9.19(d)(4).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number.

The foregoing notification is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1202.

OMB Approval Date: November 15, 2023.

OMB Expiration Date: November 30, 2026.

Title: Improving 911 Reliability; Reliability and Continuity of Communications Including Networks, Broadband Technologies.

Form Number: N/A.

Respondents: Business or other for-profit entities, Not for profit institutions and State, local, or Tribal government.

Number of Respondents and Responses: 300 respondents; 305 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Annual reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 1,

4(i), 4(j), 4(o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 615a–1, and 615c of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j) & (o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 615a–1, and 615c.

Total Annual Burden: 168,651 hours.

Total Annual Cost: No Cost.

Needs and Uses: In 2022, the Commission adopted a new rule requiring covered 911 service providers to file notice with the Commission when they cease operating as a covered 911 service provider. The Commission adopted this measure to ensure that its staff does not expend time and resources to investigate why a covered 911 service provider failed to file its annual 911 reliability certification in a timely manner, when the reason is simply because the provider ceased operations.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–12175 Filed 6–3–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket Nos. 22–238, 11–42, 21–450; FCC 23–96; FR ID 223185]

Supporting Survivors of Domestic and Sexual Violence; Lifeline and Link Up Reform Modernization

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of compliance dates.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, an information collection associated with the Commission's *Safe Connections Act Report and Order* line separation rules. This document is consistent with the *Safe Connections Act Report and Order*, which states that the Commission will publish a document in the **Federal Register** announcing the compliance date of those rules, and to cause those rules to be revised accordingly.

DATES:

Effective date: June 4, 2024.

Compliance date: Compliance with 47 CFR 64.6400 through 64.6407 and the conforming requirement in 47 CFR

64.2010(f)(2), published at 88 FR 84406 on December 5, 2023, and 88 FR 88261 on December 21, 2023, is required by July 15, 2024.

FOR FURTHER INFORMATION CONTACT: For further information regarding the line separation provisions, contact Melissa Kinkel, Competition Policy Division, Wireline Competition Bureau, at (202) 418–7958 or Melissa.Kinkel@fcc.gov. For further information regarding the domestic violence hotline database, contact Ed Krachmer, Competition Policy Division, Wireline Competition Bureau, at (202) 418–1525 or Edward.Krachmer@fcc.gov.

SUPPLEMENTARY INFORMATION: On November 16, 2023, the Commission adopted the *Safe Connections Act Report and Order* (88 FR 84406 (December 5, 2023), 88 FR 88261 (December 21, 2023) (announcing a final rule correction)) to implement the Safe Connections Act of 2022, Public Law 117–223, 116 Stat. 2280 (Safe Connections Act or SCA). In that rulemaking, the Commission adopted rules to codify and implement the line separation provisions in the SCA. The Commission required covered providers to comply with the rules implementing the SCA's line separation provisions within six months after the effective date of the *Order*, or after review of the rules by the Office of Management and Budget (OMB) is completed, whichever is later.

On May 3, 2024, OMB completed its review of the Commission's rules implementing the line separation provisions of the SCA. Accordingly, compliance with the line separation requirements adopted by the Commission in the *Safe Connections Act Report and Order*, 47 CFR 64.6400 through 64.6407, and the conforming requirement in 47 CFR 64.2010(f)(2), is required by July 15, 2024.

The Commission publishes this document as an announcement of the compliance dates of amendments to 47 CFR 64.6400 through 64.6407 and 64.2010(f)(2) and to modify the text of these rules previously published at 88 FR 84406 (December 5, 2023) and 88 FR 88261 (December 21, 2023) (announcing a final rule correction), to incorporate this date and eliminate text referring to pending approval of information collection requirements by OMB.

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. Please include

the OMB Control Number, 3060–1325, in your correspondence. The Commission will also accept your comments via email at PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on May 3, 2024, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR part 64, subpart II (47 CFR 64.6401 through 64.6403, 64.6406). The Wireline Competition Bureau also determined that 47 CFR 64.6404, 64.6405, and 64.6407 did not contain information collection requirements. These actions allow the Wireline Competition Bureau to set the compliance dates for these rules and for the conforming change to 47 CFR 64.2010(f)(2). It is therefore modifying the language of 47 CFR 64.6400 through 64.6407 and 64.2010(f)(2) and (i) to incorporate compliance dates and eliminate text referring to pending approval by OMB.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1325.

The foregoing notice is required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13) October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1325.

OMB Approval Date: May 3, 2024.

OMB Expiration Date: May 31, 2027.

Title: Safe Connections Act—Supporting Survivors of Domestic and Sexual Violence.

Form Number: N/A.

Respondents: Business or other for-profit entities and individuals or households.

Number of Respondents and Responses: 1,650,000 respondents; 1,650,000 responses.

Estimated Time per Response: 1 hour–240 hours (on average).

Frequency of Response: On occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections is contained in 47 U.S.C. 345.

Total Annual Burden: 3,527,500 hours.

Total Annual Cost: No Cost.

Needs and Uses: The Safe Connections Act of 2022 (SCA) obligates the Commission to implement rules pursuant to section 4 of the SCA, which requires that covered providers separate the mobile phone telephone lines of domestic violence survivors (and of those persons in their care) from a shared mobile service contract with an abuser within two business days of a request. To implement the line separation process, the Commission establishes this collection, which requires covered providers to notify consumers about the availability of the line separation process and requires survivors to submit certain information to covered providers to request a line separation.

List of Subjects in 47 CFR Part 64

Communications, Communications common carriers, Privacy, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

- 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 620, 716, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

- 2. Amend § 64.2010 by:

- a. Revising paragraph (f)(2); and
- b. Removing paragraph (i).

The revision reads as follows:

§ 64.2010 Safeguards on the disclosure of customer proprietary network information.

* * * * *

(f) * * *

(2) Beginning on July 15, 2024, paragraph (f)(1) of this section does not

apply to a change made in connection with a line separation request under 47 U.S.C. 345 and subpart II of this part.

* * * * *

■ 3. Revise § 64.6409 to read as follows:

§ 64.6409 Compliance date.

Compliance with §§ 64.6400 through 64.6407 is required by July 15, 2024.

[FR Doc. 2024–12220 Filed 6–3–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 231127–0277; RTID 0648–XE001]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2024 Commercial Closure for Snowy Grouper in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the commercial harvest of snowy grouper in South Atlantic Federal waters. NMFS projects commercial landings of snowy grouper will reach the commercial quota for the January through June season. Therefore, NMFS closes Federal waters in the South Atlantic for the commercial harvest of snowy grouper until the July through December season begins. This closure is necessary to protect the snowy grouper resource.

DATES: This temporary rule is effective from June 4, 2024, through June 30, 2024.

FOR FURTHER INFORMATION CONTACT: Jack McGovern, NMFS Southeast Regional Office, phone: 727–204–5518, email: john.mcgovern@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes snowy grouper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and NMFS, and is implemented by NMFS under the

authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights described in this temporary rule are in gutted weight.

The commercial annual catch limit (ACL) for snowy grouper in 2024 is 106,174 pounds (lb) or 48,160 kilograms (kg). The commercial ACL is divided into two commercial quotas, one quota for each 6-month fishing season. Seventy percent of the commercial quota is allocated for the January through June commercial fishing season and is 74,322 lb (33,712 kg) for 2024. The remaining 30 percent of the commercial ACL and commercial quota for the July through December fishing season is 31,852 lb (14,448 kg) for 2024. 50 CFR 622.190(a)(1)(i)(B) and (ii)(B). Any commercial quota remaining from the first season is added to the commercial quota in second season, but any commercial quota remaining from the second season is not carried forward into the next fishing year.

Under 50 CFR 622.193(b)(1), NMFS is required to close the commercial sector for snowy grouper when the commercial quota specified in 50 CFR 622.190(a)(1) is reached or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS projects that commercial landings of snowy grouper will reach the commercial quota for January through June 2024 by June 4, 2024. Accordingly, the commercial sector for South Atlantic snowy grouper is closed starting on June 4, 2024, and remains closed until the start of the next commercial fishing season on July 1, 2024.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having snowy grouper on board must have landed and bartered, traded, or sold such snowy grouper before June 4, 2024. During the commercial closure, harvest and possession of snowy grouper in or from South Atlantic Federal waters is limited to the bag and possession limits, as specified in § 622.187(b)(2)(ii) and (c)(1). Also during the commercial closure, the sale or purchase of snowy grouper taken from South Atlantic Federal waters is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of snowy grouper that were harvested, landed ashore, and sold before June 4, 2024, and were held in cold storage by a dealer or processor.

For a person on a vessel issued a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper, the bag and possession limits and the sale and purchase provisions during the commercial closure for snowy grouper apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.193(b)(1), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the commercial quota for South Atlantic snowy grouper have already been subject to notice and comment, and all that remains is to notify the public of the commercial closure for the remainder of the January through June fishing season this year. Prior notice and opportunity for public comment on this action is contrary to the public interest because of the need to immediately implement the commercial closure to protect South Atlantic snowy grouper, because the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest that exceeds the commercial quota.

For the reasons just stated, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effective date of this action.

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

Dated: May 29, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–12219 Filed 5–30–24; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 231215–0305; RTID 0648–XE011]

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

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2024 commercial summer flounder quota to the State of New Jersey. This adjustment to the 2024 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2024 commercial quotas for North Carolina and New Jersey.

DATES: Effective June 3, 2024 through December 31, 2024.

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

SUPPLEMENTARY INFORMATION:

Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102, and the final 2024 allocations were published on December 21, 2023 (88 FR 88266).

The final rule implementing amendment 5 to the Summer Flounder FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfers or

combinations would not preclude the overall annual quota from being fully harvested; (2) the transfers address an unforeseen variation or contingency in the fishery; and (3) the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

North Carolina is transferring 20,000 pounds (lb; 9,072 kilograms (kg)) to New Jersey through a mutual agreement between the states. This transfer was requested to repay landings made by an out-of-state permitted vessel under a safe harbor agreement. The revised summer flounder quotas for 2024 are: North Carolina, 2,371,124 lb (1,075,524 kg); and New Jersey, 1,492,958 lb (677,194 kg).

Classification

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

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

Dated: May 30, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–12202 Filed 6–3–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 680**

[Docket No. 240529–0147]

RIN 0648–BM81

Fisheries of the Exclusive Economic Zone; Bering Sea and Aleutian Islands Crab Rationalization Program

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement amendments 54 and 55 to the Fishery Management Plan (FMP) for Bering Sea and Aleutian Islands (BSAI) King and Tanner Crabs (Crab FMP). This final rule revises two provisions of the Crab Rationalization Program (CR Program) to do the following: change

active crab fishery participation requirements for crab quota share (QS) established for catcher vessel crew (CVC) and catcher/processor crew (CPC), also called C Shares; expand individual processing quota (IPQ) exemptions for custom processing from processor use caps; and remove the processor facility use cap. These actions are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Crab FMP, and other applicable laws.

DATES: This rule is effective July 5, 2024, except for the addition of a definition for “Fishing trip” in 50 CFR 680.2 at instruction 2 and the amendments to 50 CFR 680.40 at instruction 5 and 50 CFR 680.43 at instruction 8, which are effective May 31, 2024.

ADDRESSES: Electronic copies of amendments 54 and 55 to the Crab FMP, the Regulatory Impact Reviews (RIRs), and the Categorical Exclusion prepared for this action are available from <https://www.regulations.gov> or from the NMFS Alaska Region website at <https://fisheries.noaa.gov/region/alaska>. Application for Annual Crab IFQ Permit forms are available from <https://www.fisheries.noaa.gov/permit/bering-sea-and-aleutian-islands-crab-rationalization-applications-and-reporting-forms>. NMFS determined that this final action amending the Crab FMP is categorically excluded from requirements to prepare an environmental assessment under the National Environmental Policy Act.

The Environmental Impact Statement (EIS), RIR, Final Regulatory Flexibility Analysis (FRFA), and Social Impact Assessment that were previously prepared for the CR Program are available from the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>.

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

FOR FURTHER INFORMATION CONTACT:

Andrew Olson, 907–586–7228, andrew.olson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS published a Notice of Availability for amendments 54 and 55 to the Crab FMP in the **Federal Register** on February 27,

2024 (89 FR 14427), with comments invited through April 29, 2024. NMFS published a proposed rule to implement amendments 54 and 55 to the Crab FMP on March 7, 2024 (89 FR 16510) with comments invited through April 8, 2024. The Secretary of Commerce has delegated her authority to approve fishery management plan amendments to the Assistant Administrator for NOAA fisheries, who approved amendments 54 and 55 on May 29, 2024, after considering information from the public and determining that amendments 54 and 55 are consistent with the Crab FMP, the Magnuson-Stevens Act, and other applicable laws. All comments submitted on or before April 29, 2024, were considered in the approval of amendments 54 and 55 and the development of this final rule and no substantive changes have been made from the proposed rule in this final rule. A summary of the comments and NMFS's responses are provided under the heading "Comments and Responses" below.

Background

This section includes a brief description of the CR Program and the particular CR Program regulations that would be modified by this final rule and a summary of (1) CR Program, (2) C Shares and Active Participation Requirements, (3) IPQ Use Caps and Custom Processing, and (4) Processor Facility Use Cap. Additional background information and detail about the CR Program is provided in the final rule to implement the CR Program (70 FR 10147, March 2, 2005). In this document, the phrases "crab fishery," "crab fisheries," "quota share (QS)," "individual fishing quota (IFQ)," and "individual processor quota (IPQ)" refer to CR Program fisheries and the associated CR Program, unless otherwise specified. A more detailed description of the need for this rule and background information on relevant CR Program elements is included in the preamble to the proposed rule (March 7, 2024, 89 FR 16510) and section 3.2 of the RIRs for amendments 54 and 55.

CR Program

The CR Program initially assigned QS to persons based on their historic participation in one or more of the nine BSAI crab fisheries during a specific time period. Under the CR Program, NMFS issued four types of QS: catcher vessel owner (CVO) QS was assigned to holders of License Limitation Program (LLP) licenses who delivered their catch to shoreside crab processors or to stationary floating crab processors; catcher/processor owner (CPO) QS was

assigned to LLP license holders who harvested and processed their catch at sea; CPC QS was issued to operators and crew on board catcher/processor vessels; and CVC QS was issued to operators and crew on board catcher vessels.

Each crab fishing year, which is the period from July 1 of one calendar year through June 30 of the following calendar year (§ 680.2), a person who holds QS in one or more of the crab fisheries may receive an exclusive harvest privilege for a portion of the annual total allowable catch (TAC) of a crab fishery, called an individual fishing quota (IFQ).

NMFS also issued processor quota share (PQS) to CR Program processors based on their historic participation in one or more of the nine crab fisheries during a specific time period. Each crab fishing year, PQS yields an exclusive privilege to process a portion of the IFQ for each crab fishery, and this annual exclusive privilege is called IPQ. Annually, both harvester and processor QS holders must submit timely applications to NMFS by June 15 to ensure proper issuance of IFQ and IPQ prior to the start of the crab fishing year on July 1.

C Shares and Active Participation Requirements

The Council's intent in creating CVC QS and CPC QS in the CR Program was to provide both a QS holding opportunity for long-term individual fishery participants who intended to remain active in the CR Program crab fisheries and an entry level QS acquisition opportunity for new individual entrants. To qualify for annual issuance of IFQ and to retain QS, CVC QS and CPC QS holders must meet active participation requirements over the most recent, consecutive 3 and 4 crab fishing years. Active participation requirements must be demonstrated by either participating as crew in at least one delivery for a CR Program crab fishery or, if the CVC QS or CPC QS holder was an initial recipient, participating as crew in at least 30 days of fishing in any commercial fishery managed by the State of Alaska or U.S. commercial fishery in Federal waters off Alaska (§ 680.40(g)(2) and (m)). Exemptions from participation requirements exist for CVC QS and CPC QS holders who are new entrants and have held QS for less than 3 or 4 crab fishing years (§ 680.40(g)(2)(iii) and (m)(5)), initial recipients of QS, or individuals who participated as crew in a crab delivery prior to the CR Program implementation (§ 680.41(c)(1)(vii)(B)). Currently, if a CVC QS or CPC QS

holder holds QS exclusively in a single crab fishery and that fishery is closed for an entire crab fishing year, NMFS excludes that year when determining if participation requirements have been satisfied.

IPQ Use Caps and Custom Processing

When the Council recommended the CR Program, it expressed concern about the potential for excessive consolidation of QS and PQS whereby too few persons would control the QS or PQS and the resulting annual IFQ and IPQ. The Council determined that excessive consolidation can have adverse effects on crab markets, price setting negotiations between harvesters and processors, employment opportunities for harvesting and processing crew, tax revenue to communities in which crab are landed, and other factors considered and described in the CR Program EIS. To address the consolidation concerns, the CR Program limits the amount of QS that a person can hold (*i.e.*, own), the amount of IFQ that a person can use, and the amount of IFQ that can be used (*i.e.*, *fished*) on board a crab fishery vessel. Similarly, the CR Program limits the amount of PQS that a person can hold, the amount of IPQ that a person can use (*i.e.*, the amount of crab they can process), and the amount of IPQ that can be processed and custom processed at a given facility. Collectively, these harvesting and processing limits are commonly referred to as use caps.

A custom processing arrangement exists when one IPQ holder has a contract with the owners of a processing facility to have crab processed at that facility, when that IPQ holder does not have an ownership interest in the processing facility, and when that IPQ holder is not otherwise affiliated with the owners of that crab processing facility. The Council created custom processing arrangement exemptions to improve operational efficiencies in crab fisheries with historically low TACs or that occur in more remote regions. Thus, in certain CR crab fisheries, the Council exempted IPQ crab processed under a custom processing arrangement from applying against the IPQ use cap. Custom processing arrangement exemptions allow processing facilities to process more crab without triggering the IPQ use cap and prevent potential loss of financial benefits due to forgone crab harvests.

Processor Facility Use Cap

The Eastern Aleutian Island golden king crab (EAG) (*Lithodes aequispinus*) and Western Aleutian Island red king crab (WAI) (*Paralithodes camtschaticus*) crab fisheries are the only 2 of the 9 CR

crab fisheries subject to a 60 percent cap on the amount of IPQ that can be used at a processing facility. This 60 percent use cap provision applies to all IPQ crab processed at a shoreside crab processor or stationary floating crab processor and does not exempt IPQ crab that are delivered under a custom processing arrangement from IPQ use cap calculations. This provision was intended to limit the potential consolidation of IPQ ownership that can occur under the custom processing exemption and to prevent excessive consolidation of the number of processors available to harvesters, a scenario that is more likely in the EAG and WAI fisheries compared to the other fisheries with custom processing exemptions given their historically relatively small TACs compared to other crab fisheries and with the WAI fishery being closed since the 2004/2005 crab fishing year.

Amendment 54 and Amendment 55

The final rule implements amendments 54 and 55 to the Crab FMP. The preamble to the proposed rule provides a description of the need for amendments 54 and 55 which is briefly summarized here.

Since 2020, the COVID-19 pandemic and abundance declines in the Bristol Bay red king crab (BBR) and Bering Sea snow crab (BSS) (*Chionoecetes opilio*) fisheries have reduced harvest opportunities for CR Program participants resulting in processor inefficiencies, potential for stranded (unfished) IFQ, and potential that CVC QS and CPC QS holders would not meet active participation requirements necessary to receive annual issuance of IFQ and retain QS in subsequent years. This dynamic resulted in NMFS withholding IFQ or revoking QS for CVC QS and CPC QS holders that have failed to meet active participation requirements.

On July 15, 2022, NMFS issued an emergency rule (87 FR 42390) to provide CVC QS and CPC QS holders 1 additional year to demonstrate active participation in any crab fishery for receiving IFQ or maintaining CVC QS or CPC QS, regardless of participation status in the preceding 4 years. At the same time the Council requested that emergency action, the Council also initiated an analysis of alternatives for changes to CVC QS and CPC QS participation requirements to address the reduced crew opportunities due to the COVID-19 pandemic and abundance declines in the BBR and BSS fisheries. The decline in crab abundance has also led to processor inefficiencies, with more facilities than necessary

processing relatively low TACs, posing economic challenges under current IPQ use caps and risking the stranding of IFQ.

In December 2023, the Council recommended amendments 54 and 55 to the Crab FMP to provide operators and crew greater flexibility in meeting CR Program participation requirements and to improve CR Program processor efficiency. Amendment 54, amendment 55, and this final rule are intended to help CR Program participants adapt to the BSAI crab fisheries growing instability. There are continuing historical and recent closures for a number of crab fisheries, some of which have been declared overfished or are in the process of rebuilding. CR fisheries are experiencing variable stock health dynamics impacted by environmental change. Amendment 54 and this final rule enhance operational flexibility for current CVC QS and CPC QS holders, equalize active participation requirements for both initial recipients and new entrants, and maintain that CVC QS and CPC QS are held by active fishery participants only. Active participation requirements encourage those who are no longer active in the crab fishery to divest their CVC QS or CPC QS to preserve opportunities for new entrants to acquire QS. Amendment 55 and this final rule improve processor efficiency and enhance opportunities for IFQ processing. Further, amendment 55 and this final rule reduce chances that IFQ will be stranded, thereby benefiting processors, harvesters, and communities with processing facilities.

The Final Rule

This final rule revises regulations at 50 CFR part 680. This section describes the revisions to implement amendments 54 and 55 to the Crab FMP, as well as additional, related revisions recommended by the Council and/or proposed by NMFS.

C Shares and Active Participation Requirements

This final rule revises several regulations governing CVC QS, CPC QS and active participation requirements. First, this final rule modifies the active participation requirements for CVC QS and CPC QS holders by restarting the 3- and 4-crab fishing year rolling timeframe for meeting active participation requirements for all QS holders. CVC QS and CPC QS holders must satisfy participation requirements for one of the 3 crab fishing years preceding the crab fishing year for which they are applying for IFQ to be eligible to receive an annual issuance of

IFQ. CVC QS and CPC QS holders must satisfy participation requirements during one of the 4 crab fishing years preceding the crab fishing year for which they are applying for IFQ in order to retain QS. This final rule modifies regulations at § 680.40 to restart the active participation requirement based on this final rule's effective date. For example, if this final rule is made effective in June 2024, active participation requirements will restart for the 2024/2025 crab fishing year and CVC QS and CPC QS holders will not need to demonstrate active participation until the 2027/2028 crab fishing year for annual issuance of IFQ and in 2028/2029 for retention of QS. In order to receive IFQ for the 2027/2028 crab fishing year, a CVC QS or CPC QS holder will have had to have satisfied the participation requirements during the 2024/2025, 2025/2026, or 2026/2027 crab fishing years. For retention of QS in the subsequent 2028/2029 crab fishing year, a CVC QS or CPC QS holder will have had to have satisfied the participation requirements during the 2024/2025, 2025/2026, 2026/2027, or 2027/2028 crab fishing years.

Second, this final rule adds regulations to allow a CVC QS or CPC QS holder to request NMFS to reissue any QS that NMFS revoked between July 1, 2019, and the effective date of this final rule. In order to initiate reissuance of previously revoked CVC QS or CPC QS, NMFS added a field on the Application for Annual Crab IFQ Permit to be available for two application cycles. This approach provides approximately one year, to encompass two application cycles (due on June 15 each year), for an individual to request reissuance of their revoked CVC QS or CPC QS.

Third, this final rule standardizes and expands the participation requirements by removing the distinction between initial recipients and new entrants and allowing for all CVC QS and CPC QS holders to satisfy active participation requirements by either participating in at least one fishing trip with a delivery of crab in any CR Program fishery or by participating in crew activity in any combination on board fishing or tender vessels in commercial fisheries managed by the State of Alaska or a U.S. commercial fishery in Federal waters off Alaska for at least 30 days.

Fourth, this final rule expands the single closed CR Program fishery exemption for CVC QS and CPC QS holders with QS exclusively in closed CR Program fisheries to apply to more than just a single closed CR Program fishery. With this exemption, if a CVC QS or CPC QS holder holds QS

exclusively in closed CR Program fisheries in a given crab fishing year, that year will be excluded when determining if participation requirements have been met for eligibility to receive an annual issuance of IFQ and prevent revocation of QS.

Fifth, this final rule clarifies that the requirement to participate as crew in at least one crab delivery in order to meet participation requirements also includes participating in the fishing trip that results in a crab landing. This final rule modifies the definition of “fishing trip” as defined at § 680.2 to be applicable for the purposes of participation requirements at § 680.40(g) and (m).

IPQ Use Caps and Custom Processing

This final rule revises several regulations concerning custom processing and IPQ use caps. First, this final rule revises regulations at § 680.42(b) to identify BSS, BBR, and WAG crab fisheries as fisheries in which custom processing is exempt from the IPQ use cap. Adding these crab fisheries to those covered by the custom processing exemption means that all crab fisheries are now included; the list of exempt crab fisheries is no longer necessary and has been removed from regulatory text. Under revised § 680.42(b), custom processing would count toward the IPQ use cap only in rare situations involving specific geographic boundaries. Also, this final rule revises the remaining regulations included at § 680.42(b)(1) through (9) to specify how IPQ use caps are calculated.

Second, this final rule revises the definition of “custom processing” at § 680.2 to define ownership interest consistent with terminology used in regulations governing IPQ use caps exemptions at §§ 680.7(a)(7) and 680.42(b)(7). Next, this final rule adds “custom processing” to § 680.42(b) to clarify that IPQ crab processed as defined in § 680.2 in any crab fishery does not count towards IPQ use caps. Finally, this final rule modifies regulations at § 680.7(a)(7) in order to guide readers to § 680.42(b) for IPQ crab use cap calculations.

Third, this final rule removes regulations at § 680.7(a)(8) that prohibited using a corporate form to circumvent the IPQ use cap through custom processing.

Lastly, this final rule revises regulations at § 680.42(b)(1) to specify that a person cannot exceed their IPQ beyond their held PQS unless they received an initial allocation of PQS exceeding the 30 percent use cap or the IPQ is subject to an exemption specified at § 680.4(p) or is used for custom processing at a facility within specific

boundaries specified at § 680.42(b)(1)(ii)(C)(2). This final rule also modifies § 680.42(b)(2) and subparagraph (ii) to make technical fixes and accurately cite the custom processing exemption while restructuring regulations at § 680.42(b)(3) through (6) for better clarity and comprehension.

Processor Facility Use Cap

This final rule revises regulations at § 680.7(a)(9) to remove the limit on shoreside crab processors and stationary floating crab processors east of 174° W from processing more than 60 percent of the IPQ issued in the EAG and WAI crab fisheries. This change removes this restriction that was specific to the EAG and WAI crab fisheries and helps ensure that harvester IFQ is fished even if there is only one processing facility operating for each of these crab fisheries.

Other Regulatory Provisions

This final rule also includes various technical edits and corrections to particular regulations to remove typographical errors and improve clarity. This final rule revises regulations at § 680.41(j) to correct a typographical error to change the word “and” to “an” and at § 680.42(a)(3)(i) to remove the phrase “more than,” which is redundant with the preceding phrase “in excess of.”

Finally, this final rule modifies regulations at § 680.42(b)(1)(i) by replacing the phrase “PQS in excess of” with “more than” to align the language with similar terminology used at § 680.42(b)(1)(ii) regarding IPQ usage. Additionally, this final rule modifies regulations at § 680.42(b)(2) by replacing “more than” with “IPQ in excess of” to maintain consistency with language used in § 680.42(a).

Comments and Responses

NMFS received nine comment letters on the proposed rule. Two comments were outside the scope of this action and NMFS considered four unique relevant comments, which are summarized and responded to below.

Comment 1: Seven commenters express support for the proposed rule and concur with the rationale for the action to improve processor efficiency and flexibility for CVC and CPC QS holders in meeting participation requirements for CR Program fisheries. The commenters urge NMFS to expedite adoption of this rule prior to the Application for Annual Crab IFQ Permit deadline of June 15, 2024.

Response: NMFS acknowledges this comment.

Comment 2: The commenter supports this rule as long as it supports sustainable and environmentally friendly crab harvesting and the methods used to harvest crab do not jeopardize crab populations.

Response: NMFS acknowledges this comment. As described in the preamble to the proposed rule, this final rule, and the RIRs, this action does not modify the methods or processes used in determining annual stock abundance and management of crab stocks and fisheries.

Comment 3: Two commenters express concerns with existing barriers for new entrants to invest in CR Program fisheries and request NMFS consider modifying CVC QS and CPC QS holder transfer eligibility requirements to match or be similar to the participation requirements being changed in this action under amendment 54 to increase accessibility.

Response: This final rule modifies participation requirements to increase flexibility for CVC QS and CPC QS holders to receive an annual issuance of IFQ and retain QS, per amendment 54 to the Crab FMP. Modifying regulations associated with CVC QS and CPC QS holder transfer eligibility requirements is outside the scope of this action.

Comment 4: The commenter requests NMFS conduct an Environmental Assessment (EA) for amendment 54 due to the RIR not adequately considering the impact to harvest levels, crab stock abundance, and the human environment by reinstating CVC QS and CPC QS allocation of the crab fisheries TACs.

Response: NMFS disagrees. This final rule does not modify the methods or processes used in determining annual stock abundance and management of the crab stocks and fisheries, nor does it modify the total amount of CVC QS and CPC QS under the CR Program.

Amendment 54 and this final rule modify participation requirements to increase flexibility for CVC QS and CPC QS holders to receive an annual issuance of IFQ and retain QS. This final rule allows CVC QS and CPC QS holders who failed to meet participation requirements and had their QS revoked to apply for reissuance. In other words, although this final rule may result in more CVC QS and CPC QS holders, it does not change the QS pool available as CVC QS and CPC QS. Therefore, this final rule does not impact harvest levels, crab stock abundance, or the human environment. A NEPA Categorical Exclusion is appropriate for this action since it is a technical change to a fishery management regulation that will not result in a substantial change in fishing location, timing, effort, authorized gear

types, or harvest levels. Section 3.2 of the RIR for amendment 54 provides additional detail on CR Program management and establishment of CVC QS and CPC QS.

Changes From Proposed to Final Rule

There have been no changes in this final rule from the proposed rule.

Classification

Pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the amendments 54 and 55, other provisions of the Magnuson-Stevens Act, and other applicable law. This final rule has been determined to be not significant for purposes of Executive Order 12866.

Administrative Procedure Act

The NMFS Assistant Administrator finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effective date of this final rule for changes to amendment 54 that include participation requirements for CVC QS and CPC QS holders, the definition of “fishing trip” specified in 50 CFR 680.2, § 680.40 and § 680.43. Amendment 54 is designed to benefit all CVC QS and CPC QS holders who participate in CR Program fisheries, and waiving the 30-day delay in the effective date of this final rule is necessary to provide CVC QS and CPC QS holders sufficient time to complete their Application for Annual Crab IFQ Permit. Waiver allows timely reissuance of previously revoked QS, issuance of annual IFQ, determination of QS withholding and revocations, and consideration of any applicable exemptions. The Application for Annual Crab IFQ Permit are due by June 15, 2024, and amendment 54 implementing regulations must be effective prior to this application deadline for applicants to have access to the revised application form and have time to request re-issuance of previously revoked QS. Without waiver of the 30-day cooling off-period for the regulations implementing amendment 54, CVC QS and CPC QS holders would not realize the benefits of this action until the subsequent 2025/2026 crab fishing year, resulting in unnecessary economic hardship. For reasons set forth in the Analysis and the preambles of the proposed rule and the final rule, the Council and NMFS have determined that these actions will provide flexibility for CVC QS and CPC QS holders to meet participation requirements regardless of the level of crab abundance and remain active participations in CR Program fisheries.

Certification Under the Regulatory Flexibility Act

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

Regulatory Impact Review

A Regulatory Impact Review was prepared for amendment 54 and 55 to assess all costs and benefits of available regulatory alternatives. Copies of these RIRs are available from NMFS (see ADDRESSES). The Council recommended amendments 54, 55, and the regulatory revisions in this final rule based on those measures that maximized net benefits to the Nation. Specific aspects of the economic analysis are discussed above in the Certification under the Regulatory Flexibility Act section.

Collection-of-Information Requirements

This final rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This final rule revises the existing requirements for the collection of information OMB Control Number 0648–0514 (Alaska Region Crab Permits). Because of a concurrent action for 0648–0514, the revision to that collection of information for this final rule was assigned a temporary control number, 0648–0820, that will later be merged into 0648–0514. This collection is revised to add an option to the Application for Annual Crab IFQ Permit for a CVC QS and CPC QS holder to request reissuance of previously revoked CVC QS or CPC QS. This final rule does not change the number of respondents, responses, burden hours, or burden costs for this application. Public reporting burden for the Application for Annual Crab IFQ Permit is estimated to average 2.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the

impact of our information collection requirements and minimize the public's reporting burden. Written comments and recommendations for these information collections can be submitted on the following website: <https://www.reginfo.gov/public/do/PRAMain>. Find the particular information collection by selecting “Currently under Review” or by using the search function and entering either the title of the collection or the OMB control number.

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

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: May 30, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 680 as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

■ 2. Effective May 31, 2024, amend § 680.2 by adding a definition for “Fishing trip” in alphabetical order to read as follows:

§ 680.2 Definitions.

* * * * *

Fishing trip means, for the purposes of §§ 680.7(e)(2) and 680.40(g)(2)(i)(A) and (m)(2)(i), the period beginning when a vessel operator commences harvesting crab in a crab QS fishery and ending when the vessel operator offloads or transfers any processed or unprocessed crab in that crab QS fishery from that vessel.

* * * * *

■ 3. Effective July 5, 2024, further amend § 680.2 by revising the definition of “Custom processing” and removing the definition of “Fishing trip for purposes of § 680.7(e)(2)”.

The revision reads as follows:

§ 680.2 Definitions.

* * * * *

Custom processing means processing crab in any CR fishery when the IPQ holder does not have a 10 percent or greater direct or indirect ownership interest in the processing facility or affiliation with the processing facility's owners.

* * * * *

■ 4. Effective July 5, 2024, amend § 680.7 by:

- a. Adding a comma after the first use of “fishery” in paragraph (a)(5);
 - b. Revising paragraph (a)(7); and
 - c. Removing paragraphs (a)(8) and (9).
- The revision reads as follows:

§ 680.7 Prohibitions.

(a) * * *

(7) For an IPQ holder to use more IPQ than the maximum amount of IPQ that may be held by that person under § 680.42(b).

* * * * *

■ 5. Effective May 31, 2024, amend § 680.40 by revising paragraphs (g)(2), (g)(3) introductory text, and (m)(1), (2), and (5) and adding paragraph (m)(6) to read as follows:

§ 680.40 Crab quota share (QS), processor QS (PQS), individual fishing quota (IFQ), and individual processor quota (IPQ).

* * * * *

(g) * * *

(2) *Eligibility for CVC IFQ and CPC IFQ.* For each crab fishing year after June 30, 2027, individuals holding CVC QS or CPC QS permits must meet the participation requirements set forth in paragraph (g)(2)(i) of this section in order to receive CVC IFQ or CPC IFQ, unless the CVC QS permit holder or CPC QS permit holder meets the exemption provided in paragraph (g)(2)(ii) of this section.

(i) During one of the 3 crab fishing years preceding the crab fishing year for which the individual is filing an annual crab IFQ permit application, the individual has participated as crew in at least:

- (A) One fishing trip where a delivery of crab is made in any CR fishery; or
- (B) 30 days of:

(1) Fishing in a commercial fishery managed by the State of Alaska or in a Federal commercial fishery in the EEZ off Alaska. Individuals may combine their participation as crew in State of Alaska and Federal commercial fisheries in waters off Alaska to meet this requirement; or

(2) On a tender vessel operating in support of a commercial fishery managed by the State of Alaska or in a Federal commercial fishery in the EEZ off Alaska. Individuals may combine their participation as crew on a tender

vessel in State of Alaska and Federal commercial fisheries in waters off Alaska to meet this requirement.

(C) Individuals may combine their participation specified in paragraphs (g)(2)(i)(B)(1) and (2) of this section to meet this requirement.

(D) If the individual holds CVC QS or CPC QS in one or more CR fisheries and all CR crab fisheries for which the QS holder holds QS are closed, NMFS will exclude that crab fishing year when determining whether the individual has satisfied the participation requirements specified in paragraph (g)(2)(i) of this section.

(ii) All of the CVC QS or CPC QS permits held by the individual were acquired using the eligibility criteria in § 680.41(c)(1)(vii)(B) or reissued under paragraph (m)(6) of this section and the individual has held those CVC QS or CPC QS permits for less than 3 crab fishing years.

(3) *Withholding of CVC IFQ or CPC IFQ.* Beginning July 1, 2027, the Regional Administrator will withhold issuance of CVC IFQ or CPC IFQ to an individual who has not met the participation requirements set forth in paragraph (g)(2) of this section. The Regional Administrator will withhold an individual's CVC IFQ or CPC IFQ in accordance with the procedures set forth in paragraphs (g)(3)(i) and (ii) of this section.

* * * * *

(m) * * *

(1) Beginning July 1, 2028, and each crab fishing year thereafter, individuals allocated CVC QS or CPC QS must meet the participation requirements set forth in paragraph (m)(2) of this section in order to retain their CVC QS or CPC QS unless the CVC QS holder or CPC QS holder meets the exemption provided in paragraph (m)(5) of this section.

(2) During one of the 4 crab fishing years preceding the crab fishing year for which the individual is filing an annual crab IFQ permit application, the individual has participated as crew in at least:

- (i) One fishing trip where a delivery of crab is made in any CR fishery; or
- (ii) 30 days of:

(A) Fishing in a commercial fishery managed by the State of Alaska or in a Federal commercial fishery in the EEZ off Alaska. Individuals may combine their participation as crew in State and Federal commercial fisheries to meet this requirement; or

(B) On a tender vessel operating in support of a commercial fishery managed by the State of Alaska or in a Federal commercial fishery in the EEZ off Alaska. Individuals may combine

their participation as crew on a tender vessel in State and Federal commercial fisheries to meet this requirement.

(iii) Individuals may combine participation specified in paragraphs (m)(2)(i)(A) and (B) of this section to meet this requirement.

(iv) If the individual holds CVC QS or CPC QS in one or more CR crab fisheries and all CR crab fisheries for which the QS holder holds QS are closed, NMFS will exclude that crab fishing year when determining whether the individual has satisfied the participation requirement specified in this paragraph (m)(2).

* * * * *

(5) All of the CVC QS or CPC QS permits held by the individual were acquired using the eligibility criteria in § 680.41(c)(1)(vii)(B) or reissued under paragraph (m)(6) of this section, and the person has held those CVC QS or CPC QS permits for less than 4 crab fishing years.

(6) For CVC QS or CPC QS revoked by NMFS under regulations paragraph (m)(2) of this section from July 1, 2019, through May 31, 2024, an individual may apply for reissuance of QS with the individual's annual crab IFQ permit application from May 31, 2024 through June 15, 2025.

§ 680.41 [Amended]

■ 6. Effective July 5, 2024, amend § 680.41 by removing the word “and” and adding in its place the word “an” in the paragraph (j) heading.

■ 7. Effective July 5, 2024, amend § 680.42 by:

- a. Removing the phrase “more than” in paragraph (a)(3)(i) introductory text;
- b. Removing the phrase “more than” and adding in its place the phrase “PQS in excess of” in the first sentence of paragraph (b)(1)(i);
- c. Revising paragraphs (b)(1)(ii)(A) and (B);
- d. Adding paragraph (b)(1)(ii)(C);
- e. Revising paragraphs (b)(2) introductory text, (b)(2)(ii), and (b)(3);
- f. Redesignating paragraphs (b)(4) through (6) as paragraphs (b)(7) through (9);
- g. Adding new paragraphs (b)(4) through (6);
- h. Removing the reference to “(b)(4)(iv)” and adding in its place “(b)(7)(iv)” in newly redesignated paragraph (b)(7) introductory text;
- i. Removing “paragraph (b)(4) of this section” and adding in its place “this paragraph (b)(7)” in newly redesignated paragraph (b)(7)(iv); and
- j. Removing “(b)(4)” and adding in its place “(b)(7)” in newly redesignated paragraph (b)(8) introductory text.

The revisions and additions read as follows:

§ 680.42 Limitations on use of QS, PQS, IFQ, and IPQ.

* * * * *

- (b) * * *
- (1) * * *
- (ii) * * *

(A) Derived from PQS that was received by that person in the initial allocation of PQS for that crab QS fishery; or

(B) Subject to an exemption for that IPQ pursuant to § 680.4(p); or

(C) Used for custom processing at a facility that is:

(1) Any shoreside crab processor located within the boundaries of a home rule, first class, or second class city in the State of Alaska in existence on June 29, 2009; or

(2) Any stationary floating crab processor that is:

(i) Located within the boundaries of a home rule, first class, or second class city in the State of Alaska in existence on June 29, 2009;

(ii) Moored at a dock, docking facility, or at a permanent mooring buoy, unless that stationary floating crab processor is located within the boundaries of the city of Atka in which case that stationary floating crab processor is not required to be moored at a dock, docking facility, or at a permanent mooring buoy; and

(iii) Located within a harbor, unless that stationary floating crab processor is located within the boundaries of the city of Atka on June 29, 2009, in which case that stationary floating crab processor is not required to be located within a harbor.

(2) A person may not use IPQ in excess of 60 percent of the IPQ issued in the BSS crab QS fishery with a North region designation during a crab fishing year. Except that a person who:

* * * * *

(ii) Has a 10 percent or greater direct or indirect ownership interest in the shoreside crab processor or stationary floating crab processor where that IPQ crab is processed will not be considered to use any IPQ in the BSS crab QS fishery with a North region designation if that IPQ is custom processed at a facility consistent with paragraph (b)(1)(ii)(C) of this section.

(3) A non-individual entity holding PQS will be required to provide, on an annual basis, a list of persons with an ownership interest in the non-individual entity. This ownership list shall be provided to the individual level, will include the percentage of ownership held by each owner, and must be submitted annually with the complete application for a crab IFQ/IPQ permit.

(4) A person will be considered to be a holder of PQS for purposes of applying the PQS use caps in this paragraph if that person:

(i) Is the sole proprietor of an entity that holds PQS; or

(ii) Is not a CDQ group and directly or indirectly owns a 10 percent or greater interest in an entity that holds PQS.

(5) A person that is not a CDQ group and holds PQS is limited to a PQS use

cap that is calculated based on the sum of all PQS held by that PQS holder and all PQS held by any affiliate of the PQS holder. A person that is not a CDQ group and holds IPQ is limited to an IPQ use cap that is calculated based on the sum of all IPQ held by that IPQ holder and all IPQ held by any affiliate of the IPQ holder.

(6) A CDQ group that holds PQS is limited to a PQS use cap that is calculated based on the sum of all PQS held, individually or collectively, by that CDQ group. A CDQ group that holds IPQ is limited to an IPQ use cap that is calculated based on the sum of all IPQ held, individually or collectively, by that CDQ group.

* * * * *

■ 8. Effective May 31, 2024, amend § 680.43 by revising paragraph (a) to read as follows:

§ 680.43 Revocation of CVC and CPC QS.

(a) Beginning July 1, 2028, the Regional Administrator will revoke all CVC QS and CPC QS held by an individual who has not met the participation requirements set forth in § 680.40(m). The Regional Administrator will revoke an individual's CVC QS or CPC QS in accordance with the procedures set forth in this section.

* * * * *

[FR Doc. 2024–12230 Filed 5–31–24; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 89, No. 108

Tuesday, June 4, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–1480; Project Identifier MCAI–2023–00930–A]

RIN 2120–AA64

Airworthiness Directives; DAHER (Type Certificate Previously Held by SOCAT) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2016–08–08, which applies to all SOCAT (type certificate now held by DAHER) Model MS 880B, MS 885, MS 892A–150, MS 892E–150, MS 893A, MS 893E, MS 894A, MS 894E, Rallye 100S, Rallye 150ST, Rallye 150T, Rallye 235C, and Rallye 235E airplanes. AD 2016–08–08 requires doing repetitive detailed visual inspections of the intersection between the axle radius and the nose landing gear (NLG) fork area for chafing; doing repetitive dye penetrant inspections on the NLG wheel axle for cracks, distortion, and nicks or wear; doing corrective actions if necessary; and replacing the NLG wheel axle attachment screws with new screws. Since the FAA issued AD 2016–08–08, the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, superseded the previous EASA AD to introduce a new inspection method and a new design for the affected NLG wheel axle that provides terminating action for the repetitive inspections, as specified in updated service information published by the manufacturer. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by July 19, 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–2024–1480; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI) any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information, contact Daher Aerospace, Customer Support, Airplane Division, 65921 Tarbes Cedex 9, France; phone: 33 (0)5 62.41.73.00; email: *tbmcare@daher.com*; website: *daher.com*.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231–2346; email: *fred.guerin@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–2024–1480; Project Identifier MCAI–2023–00930–A” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider

all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this 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 Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2016–08–08, Amendment 39–18484 (81 FR 21711, April 13, 2016) (AD 2016–08–08), for SOCAT (type certificate now held by DAHER) Model MS 880B, MS 885, MS 892A–150, MS 892E–150, MS 893A, MS 893E, MS 894A, MS 894E, Rallye 100S, Rallye 150ST, Rallye 150T, Rallye 235C, and Rallye 235E airplanes. AD 2016–08–08 was prompted by MCAI originated by EASA. EASA issued AD 2015–0203, dated October 7, 2015 (EASA AD 2015–0203) to correct an unsafe condition identified as fatigue failure of the NLG wheel axle. EASA AD 2015–0203 required retaining the requirements of Direction Générale de l’Aviation Civile (DGAC) France AD 91–

163(A)R2, dated March 30, 1994, which was superseded, but required those actions to be accomplished within reduced intervals.

AD 2016–08–08 requires doing repetitive detailed visual inspections of the intersection between the axle radius and the NLG fork area for chafing; doing repetitive dye penetrant inspections on the NLG wheel axle for cracks, distortion, and nicks or wear; corrective actions if necessary; and replacing the NLG wheel axle attachment screws with new screws. The FAA issued AD 2016–08–08 to address chafing and cracking of the NLG wheel axle, which could lead to failure of the NLG with consequent damage to the airplane and/or injury to occupants.

Actions Since AD 2016–08–08 Was Issued

Since the FAA issued AD 2016–08–08, EASA superseded EASA AD 2015–0203 and issued EASA AD 2023–0080, dated April 17, 2023 (EASA AD 2023–0080) (also referred to as the MCAI) to correct an unsafe condition for all DAHER AEROSPACE Model MS 880 B, MS 880 B–D, MS 881, MS 883, MS 884, MS 885, MS 886, MS 887, MS 890 A, MS 890 B, MS 892 A.150, MS 892 B.150, MS 892 E.150, MS 892 E–D.150, MS 893 A, MS 893 B, MS 893 E, MS 893 E–D, MS 894 A, MS 894 E, RALLYE 100 S, RALLYE 100 S–D, RALLYE 100 ST, RALLYE 100 ST–D, RALLYE 110 ST, RALLYE 150 ST, RALLYE 150 ST–D, RALLYE 150 T, RALLYE 150 T–D, RALLYE 150 SV, RALLYE 150 SVS, RALLYE 180 T, RALLYE 180 TS, RALLYE 180 T–D, RALLYE 235 A, RALLYE 235 F, RALLYE 235 E, and RALLYE 235 E–D airplanes.

The MCAI states that it retains the requirements of EASA AD 2015–0203 but introduces a new inspection method and a new design of the NLG wheel axle as a terminating action for the repetitive detailed inspections. The FAA is issuing this AD to address chafing and cracking of the NLG wheel axle, which could lead to failure of the NLG with consequent damage to the airplane and injury to occupants.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–1480.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Daher Service Bulletin SB 150–32, Revision 4, dated January 2023. This service information specifies procedures for preparing, inspecting, replacing, and reconditioning the NLG wheel axle. This service information also specifies procedures for replacing the NLG wheel axle attachment screws.

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

FAA’s Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described

previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would retain none of the requirements of AD 2016–08–08. This proposed AD would require repetitively inspecting the NLG wheel axle and, if chafing, cracking, or damage is found, installing the newly designed NLG wheel axle, which would terminate the need for the repetitive inspections. This proposed AD would also require repetitively replacing the NLG wheel axle attachment screws.

Differences Between This Proposed AD and the MCAI

The applicability of the MCAI includes DAHER AEROSPACE Model MS 886, MS 887, MS 890 A, MS 890 B, MS 892 B.150, MS 892 E–D.150, MS 893 B, MS 893 E–D, RALLYE 100 S–D, RALLYE 100 ST, RALLYE 100 ST–D, RALLYE 110 ST, RALLYE 150 ST–D, RALLYE 150 T–D, RALLYE 150 SV, RALLYE 150 SVS, RALLYE 180 T, RALLYE 180 TS, RALLYE 180 T–D, RALLYE 235 A, RALLYE 235 F, and RALLYE 235 E–D airplanes and the applicability of this proposed AD would not because these models do not have an FAA type certificate.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 32 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
Magnetic particle inspection	1 work-hour × \$85 per hour = \$85	\$100	\$185	\$5,920.
Inspection of the NLG wheel bearing and axle surface and attachment screws.	2 work-hours × \$85 per hour = \$170 (per inspection cycle).	\$100	\$270 (per inspection cycle).	\$8,640.
NLG wheel axle attachment screw replacement.	1 work-hour × \$85 per hour = \$85 (per cycle).	\$50 (per cycle)	\$135 (per cycle) ...	\$4,320 (per cycle).

The FAA estimates the following costs to do any necessary actions that would be required based on the results

of the proposed inspections. 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
Installation of a nose gear wheel axle (including NLG wheel spacer).	2 work-hours × \$85 per hour = \$170	\$1,000	\$1,170

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:

- a. Removing Airworthiness Directive 2016–08–08, Amendment 39–18484 (81 FR 21711, April 13, 2016); and
- b. Adding the following new airworthiness directive:

DAHER (Type Certificate previously held by SOCATA): Docket No. FAA–2024–1480; Project Identifier MCAI–2023–00930–A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 19, 2024.

(b) Affected ADs

This AD replaces AD 2016–08–08, Amendment 39–18484 (81 FR 21711, April 13, 2016).

(c) Applicability

This AD applies to DAHER (type certificate previously held by SOCATA) Model MS 880B, MS 885, MS 892A–150, MS 892E–150, MS 893A, MS 893E, MS 894A, MS 894E, Rallye 100S, Rallye 150ST, Rallye 150T, Rallye 235C, and Rallye 235E airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 3220, Nose/Tail Landing Gear.

(e) Unsafe Condition

This AD was prompted by a report of a nose landing gear (NLG) wheel axle rupture in service. The FAA is issuing this AD to address chafing and cracking of the NLG wheel axle. The unsafe condition, if not addressed, could lead to failure of the NLG with consequent damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Definitions

For the purposes of this AD the following definitions apply:

- (1) *Group 1 Airplanes:* Airplanes having any affected parts installed as of the effective date of this AD.
- (2) *Group 2 Airplanes:* Airplanes that do not have any affected parts installed as of the effective date of this AD.
- (3) *Affected Parts:* NLG wheel axles having part number (P/N) 8954200270 and NLG wheel spacer having P/N 8954200260.
- (4) *Serviceable Parts:* NLG wheel axles having P/N AV–RAL–001–01 and NLG wheel spacer having P/N AV–RAL–002–01.
- (5) *New Part:* Any part that has zero hours time-in-service (TIS).

(h) Inspections and Axle Replacement for Group 1 Airplanes

- (1) Within 200 hours TIS after the effective date of this AD, and thereafter at intervals not to exceed 200 hours TIS, perform a detailed visual inspection for chafing and cracking between the NLG wheel bearing and axle surface in accordance with paragraphs B.1 and B.2 of Daher Service Bulletin SB 150–32, Revision 4, dated January 2023 (Daher SB 150–32, Revision 4).
- (2) If any chafing or cracking is found during any inspection required by paragraph

(h)(1) of this AD, before further flight, replace the NLG wheel axle with one of the following:

- (i) An NLG wheel axle that is found to be free of chafing and cracking per the inspection required by paragraph (h)(1) of this AD and free of damage per the inspection required by paragraph (h)(3) of this AD.
- (ii) Serviceable parts, as defined in this AD, in accordance with paragraphs C.2 through C.4 of Daher SB 150–32, Revision 4. This part installation makes the airplane a Group 2 airplane and terminates the inspection requirements in this AD.
- (3) If no chafing or cracking is found during any inspection required by paragraph (h)(1) of this AD, before further flight, do a magnetic particle inspection of the NLG wheel axle for damage (distortion, nicks, wear, and cracking).
- (4) If any damage is found during any magnetic particle inspection required by paragraph (h)(3) of this AD, before further flight, replace the NLG wheel axle with one of the following:
 - (i) An NLG wheel axle that is found to be free of chafing and cracking per the inspection required by paragraph (h)(1) of this AD and free of damage per the inspection required by paragraph (h)(3) of this AD.
 - (ii) Serviceable parts, as defined in this AD, in accordance with paragraphs C.2 through C.4 of Daher SB 150–32, Revision 4. This part installation makes the airplane a Group 2 airplane and terminates the inspection requirements in this AD.

(i) NLG Wheel Axle Attachment Screw Replacement for Group 1 and Group 2 Airplanes

Replace the NLG wheel axle attachment screws in accordance with paragraph C.2 of Daher SB 150–32, Revision 4, as follows:

- (1) Initially before exceeding 2,000 hours TIS total on the airplane, before exceeding 2,000 hours TIS since the last time the attachment screws were replaced, or within 50 hours TIS after the effective date of this AD, whichever occurs later.
- (2) Repetitively thereafter at intervals not to exceed 2,000 hours TIS.

(j) Installation Prohibition for Group 1 and Group 2 Airplanes

As of the effective date of this AD, do not install an affected NLG wheel axle, as defined in this AD, on any airplane, unless the criteria in paragraphs (j)(1) and (2) of this AD are met:

- (1) The affected NLG wheel axle is found to be free of chafing and cracking per the inspection required by paragraph (h)(1) of this AD and free of damage per the inspection required by paragraph (h)(3) of this AD.
- (2) The NLG wheel axle attachment screws are replaced with new screws.

(k) Credit for Previous Actions

You may take credit for the initial actions required by paragraphs (h) and (i) of this AD if you performed those actions before the effective date of this AD using SOCATA SB 150–32, Revision 2; or Daher-SOCATA SB 150–32, Revision 3.

(l) 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 local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (m)(1) of this AD or email to: 9-AVS-AIR-730-AMOC@faa.gov. If mailing information, also submit information by email. 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.

(m) Additional Information

(1) For more information about this AD, contact Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231-2346; email: fred.guerin@faa.gov.

(2) Service information identified in this AD that is not incorporated by reference is available at the address specified in paragraph (n)(3) of this AD.

(n) Material Incorporated by Reference

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

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

(i) Daher Service Bulletin SB 150-32, Revision 4, dated January 2023.

(ii) [Reserved]

(3) For service information, contact Daher Aerospace, Customer Support, Airplane Division, 65921 Tarbes Cedex 9, France; phone: 33 (0)5 62.41.73.00; email: tbmcare@daher.com; website: daher.com.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. 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 May 28, 2024.

Victor Wicklund,

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

[FR Doc. 2024-12046 Filed 6-3-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG-2024-0410]

RIN 1625-AA00

Safety Zone; Oswego River, Oswego, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to adjust the safety zone radius and location to within a 210-Foot radius of position 43°27'15.37" N, 76°30'28.38" W due to a fireworks event. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Eastern Great Lakes.

DATES: Comments and related material must be received by the Coast Guard on or before July 5, 2024.

ADDRESSES: You may submit comments identified by docket number USCG-2024-0410 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email United States Coast Guard Marine Safety Unit Thousand Islands: 315-774-8724 D09SMBMSDMassenaMail@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On March 8, 2024, the City of Oswego notified the Coast Guard that there will be a change of location of its fireworks display normally conducted from 9:30 p.m. to 10 p.m. on or around July 4th as listed in 33 CFR 165.939, table line

item (29). The fireworks are to be now launched from a bridge in position 43°27'15.37" N, 76°30'28.38" W with a 210-Foot radius Safety zone from launching position. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector Eastern Great Lakes (COTP) has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone within a 210-Foot radius of the launching position.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 210-Foot radius of the fireworks launching position before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to amend a safety zone listed in 33 CFR 165.939, table line item (29). The safety zone would cover all navigable waters within 210-Foot radius from the fireworks launching position 43°27'15.37" N, 76°30'28.38" W in the Oswego River Oswego, NY. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a "significant regulatory action," under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB). This regulatory action determination is based on his regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a

small, designated area of the Oswego River for less than 1 hour during the evening when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rulemaking would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting 1 hour that would prohibit entry within 210-Foot of fireworks launch site. Normally such actions are categorically

excluded from further review under paragraph L60 (a) of appendix A, table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2024–0410 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The

option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy

and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Amend § 165.939 by revising line item (29) of the table to read as follows:

* * * * *

TABLE 165.939

Event	Location ¹	Enforcement date and time
(29) Oswego Independence Day Celebration Fireworks ..	Oswego, NY. All waters of Lake Ontario, Oswego, NY within a 210-foot radius from the launch site located at position 43°27'15.37" N, 76°30'28.38" W.	On or around the 4th of July.

¹ All coordinates listed in Table 165.929 reference Datum NAD 1983.

* * * * *

Dated: May 29, 2024.

Mark I. Kuperman,
Captain, U.S. Coast Guard, Captain of the Port Eastern Great Lakes.

[FR Doc. 2024–12177 Filed 6–3–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412, 413, 431, 482, 485, 495, and 512

[CMS–1808–CN]

RIN 0938–AV34

Medicare and Medicaid Programs and the Children’s Health Insurance Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2025 Rates; Quality Programs Requirements; and Other Policy Changes; Correction

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

ACTION: Proposed rule; correction

SUMMARY: This document corrects technical and typographical errors in the proposed rule that appeared in the May 2, 2024 **Federal Register** titled

“Medicare and Medicaid Programs and the Children’s Health Insurance Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2025 Rates; Quality Programs Requirements; and Other Policy Changes.”

DATES: June 4, 2024.

FOR FURTHER INFORMATION CONTACT:

Donald Thompson and Michele Hudson, DAC@cms.hhs.gov, (410) 786–4487, Direct Graduate Medical Education Issues.

Lily Yuan, NewTech@cms.hhs.gov, New Technology Add-On Payments Issues.

Lang Le, lang.le@cms.hhs.gov, Hospital Readmissions Reduction Program and Advancing Patient Safety and Outcomes Across the Hospital Quality Programs.

Julia Venanzi, julia.venanzi@cms.hhs.gov, Hospital Inpatient Quality Reporting Program, Hospital Value-Based Purchasing Program and Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) Survey Measure.

Lorraine Wickiser, Lorraine.wickiser@cms.hhs.gov, Long-term Care Hospital Quality Reporting Program.

Jessica Warren, jessica.warren@cms.hhs.gov, and Elizabeth Holland, elizabeth.holland@cms.hhs.gov, Medicare Promoting Interoperability Program.

CMMI_TEAM@cms.hhs.gov, Transforming Episode Accountability Model (TEAM).

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2024–07567 of May 2, 2024 (89 FR 35934), there were a number of typographical and technical errors that are identified and corrected in this correcting document.

II. Summary of Errors

A. Summary of Errors in the Preamble

On pages 36034, 36038, 36041, 36048, 36055, 36062, 36067, 36073, 36079, 36084, 36090, 36095, 36102, 36110, 36112, 36114, 36118, 36125, 36131, and 36135, in the discussion of the new technology add-on payment, we are correcting inadvertent typographical and technical errors made in the tables identifying the files that were used by applicants in standardizing charges for their cost analyses.

On page 36225, within our discussion of technical fixes to the direct graduate medical education (DGME) regulations, removal of obsolete regulations under § 413.79(d)(6), we are correcting a typographical error.

On page 36242, in the discussion of the Hospital Value-Based Purchasing Program, we are correcting a typographical error in the preamble.

On pages 36286, 36287, and 36292, in our discussion of the proposed adoption of the Patient Safety Structural Measure, we are correcting several typographical and technical errors.

On pages 36294 and 36304, in the discussion of the updates to the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) Survey measure, we are correcting typographical and technical errors in the preamble.

On page 36305, in the Advancing Patient Safety and Outcomes Across the Hospital Quality Programs request for comment, we are correcting a technical error.

On pages 36314, 36317, 36320, 36323, 36325, 36326, 36329, 36330, 36332, 36333, and 36335, in our discussion of the Hospital Inpatient Quality Reporting Program, we are correcting several typographical and technical errors.

On pages 36346, 36350, 36351, and 36352, in the discussion of the Long-term Care Hospital Quality Reporting Program (LTCH QRP), we are correcting several technical and typographical errors.

On pages 36373, 36374, 36375, 36376, 36378, and 36380, in our discussion of

the Medicare Promoting Interoperability Program, we are correcting several typographical and technical errors.

On pages 36413 through 36415, 36449, and 36451, in our discussion of the Transforming Episode Accountability Model (TEAM), we are correcting inadvertent errors in the references and hyperlinks for several footnotes.

On page 36414, in our TEAM overview, we are clarifying that the discussion of episode counts is specific to Bundle Payments for Care Improvement Initiative (BPCI) Advanced episodes.

On pages 36415, 36416, and 36418, in our discussion of TEAM, we are correcting the inadvertent omission of cross-references to proposed changes to spinal fusion MS-DRGs for FY 2025 which, if finalized, would affect the Medicare Severity Diagnosis Related Groups (MS-DRGs) proposed for TEAM.

B. Summary of Errors in the Appendices

On page 36611, in our discussion of the impact analysis of Table III: Provider Deciles by Beneficiary Characteristics, we made an inadvertent error in a hyperlink for a footnote.

On page 36621, in our discussion of the Effects under the Hospital Readmissions Reduction Program, we are correcting a typographical error.

On page 36642 in our discussion of the Effects of the LTCH QRP, we are correcting a typographical error.

III. Correction of Errors

In FR Doc. 2024–07567 of May 2, 2024 (89 FR 35934), we are making the following corrections:

A. Corrections of Errors in the Preamble

1. On page 36034, top of the page, in the table titled “CASGEVY™ COST ANALYSIS¹⁷”, the entry for Standardized charges is corrected to read as follows:

CASGEVY™ COST ANALYSIS¹⁷

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2024 IPPS/LTCH PPS final rule.
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2. On page 36038, bottom of the page, in the table titled “CASGEVY™ COST ANALYSIS²¹”, the entry for

Standardized charges is corrected to read as follows:

CASGEVY™ COST ANALYSIS²¹

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2024 IPPS/LTCH PPS final rule.
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3. On page 36041, middle of the page, in the table titled “DURAGRAFT® COST ANALYSIS²⁵”, the table title and

entry for Standardized charges are corrected to read as follows:

DuraGraft® COST ANALYSIS²⁵

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2022 IPPS/LTCH PPS final rule and correction notice.
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4. On page 36048, top of the page, in the table titled “ELREXFIO™ COST

ANALYSIS”, the entry for Standardized charges is corrected to read as follows:

ELREXFIO™ COST ANALYSIS

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Standardizing File posted with the FY 2024 IPPS/LTCH PPS final rule and in the Impact File posted with the FY 2022 IPPS/LTCH PPS final rule.
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5. On page 36055, top of the page, in the table titled “FLOPATCH FP120 COST ANALYSIS”, the entry for Standardized charges is corrected to read as follows:

FLOPATCH FP120 COST ANALYSIS

Standardized charges	The applicant did not apply standardization to the charge per case. The applicant used values from the “average charge” from the FY2022 MedPAR file.
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6. On page 36062, top of the page, in the table titled “HEPZATO™ KIT COST ANALYSIS⁵⁴”, the entry for Standardized charges is corrected to read as follows:

HEPZATO™ KIT COST ANALYSIS⁵⁴

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Standardizing and Impact Files posted with the FY 2022 IPPS/LTCH PPS final rule correction notice.
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7. On page 36067, bottom of the page, in the table titled “LANTIDRA™ COST ANALYSIS”, the entry for Standardized charges is corrected to read as follows:

LANTIDRA™ COST ANALYSIS

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2022 IPPS/LTCH PPS final rule and correction notice.
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8. On page 36073, in the table titled “AMTAGVI™ COST ANALYSIS⁷⁵”, the entry for Standardized charges is corrected to read as follows:

AMTAGVI™ COST ANALYSIS⁷⁵

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2022 IPPS/LTCH PPS final rule and correction notice.
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9. On page 36079, top of the page, in the table titled “LYFGENIA™ COST ANALYSIS⁸³”, the entry for Standardized charges is corrected to read as follows:

LYFGENIA™ COST ANALYSIS⁸³

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2022 IPPS/LTCH PPS final rule and correction notice.
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10. On page 36084, middle of the page, in the table titled “QUICKTOME SOFTWARE SUITE COST ANALYSIS”, the entry for Standardized charges is corrected to read as follows:

QUICKTOME SOFTWARE SUITE COST ANALYSIS

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2020 IPPS/LTCH PPS final rule and correction notice.
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11. On page 36090, top of the page, in the table titled “TALVEY™ COST ANALYSIS”, the entry for Standardized charges is corrected to read as follows:

TALVEY™ COST ANALYSIS

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2024 IPPS/LTCH PPS final rule.
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12. On page 36095, in the table titled “ODRONEXTAMAB COST ANALYSIS”, the entry for Standardized charges is corrected to read as follows:

ODRONEXTAMAB COST ANALYSIS

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Standardizing File posted with the FY 2022 IPPS/LTCH PPS final rule.
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13. On page 36102, in the table titled “ODRONEXTAMAB COST ANALYSIS ¹¹²”, the entry for Standardized charges is corrected to read as follows:

ODRONEXTAMAB COST ANALYSIS ¹¹²

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Standardizing File posted with the FY 2022 IPPS/LTCH PPS final rule.
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14. On page 36110, middle of the page, in the table titled “ASTar® System COST ANALYSIS ¹¹⁹”, the entry for Standardized charges is corrected to read as follows:

ASTar® System COST ANALYSIS ¹¹⁹

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Standardizing and Impact Files posted with the FY 2022 IPPS/LTCH PPS final rule correction notice.
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15. On page 36112, top of the page, in the table titled “CEFEPIE-TANIBORBACTAM COST ANALYSIS ¹²⁰”, the entry for Standardized charges is corrected to read as follows:

CEFEPIE-TANIBORBACTAM COST ANALYSIS ¹²⁰

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Standardizing File posted with the FY 2022 IPPS/LTCH PPS final rule.
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16. On page 36114, top of the page, in the table titled “EVOQUE™ TRICUSPID VALVE REPLACEMENT SYSTEM COST ANALYSIS”, the entry for Standardized charges is corrected to read as follows:

EVOQUE™ TRICUSPID VALVE REPLACEMENT SYSTEM COST ANALYSIS

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported with the FY 2022 IPPS/LTCH PPS final rule correction notice.
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17. On page 36118, top of the page, in the table titled “LimFlow™ System COST ANALYSIS ¹²²”, the entry for Standardized charges is corrected to read as follows:

LimFlow™ System COST ANALYSIS ¹²²

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2024 IPPS/LTCH PPS final rule.
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18. On page 36125, top of the page, in the table titled “RESTOR3D TIDAL™ FUSION CAGE COST ANALYSIS ¹²⁶”, the table title and entry for Standardized charges is corrected to read as follows:

restor3d TIDAL™ FUSION CAGE COST ANALYSIS ¹²⁶

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Standardizing and Impact Files posted with the FY 2024 IPPS/LTCH PPS final rule and correction notice.
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19. On page 36131, bottom of the page, in the table titled “TRICLIP™ G4 COST ANALYSIS”, the table title and

the entry for Standardized charges is corrected to read as follows:

TriClip™ G4 COST ANALYSIS

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2022 IPPS/LTCH PPS final rule correcting amendment.
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20. On page 36135, top of the page, in the table titled “ZEVTERA™ COST ANALYSIS ¹³²”, the entry for

Standardized Charges is corrected to read as follows:

ZEVTERATM COST ANALYSIS ¹³²

Standardized charges	The applicant used the standardization formula provided in Appendix A of the application. The applicant used all relevant values reported in the Impact File posted with the FY 2024 IPPS/LTCH PPS final rule.
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21. On page 36225, second column, second full paragraph, line 15, the citation “§ 413.79(d)(i)” is corrected to read “§ 413.79(d)(6)(i)”.

22. On page 36242, top of the page, in the table titled “TABLE V.L.–05: BASELINE AND PERFORMANCE PERIODS FOR THE FY 2028 PROGRAM YEAR”, first table note, line 1, the phrase “we are proposing to we are proposing that” is corrected to read “we are proposing that”.

23. On page 36286:

a. First column, first full paragraph:

(1) Line 12 the reference, “section IX.C.5.b” is corrected to read “section IX.C.5.d.”.

(2) Line 16, the reference, “section IX.C.5.d” is corrected to read “section IX.C.5.b.”.

b. Second column, first full paragraph, line 7, the parenthetical reference, “(see Table VIII.B.1–01)” is corrected to read “(see Table IX.B.1–01)”.

c. Third column, first full paragraph, lines 37 through 39, the phrase “Measure Review and Measure Set Review, including details” is corrected to read “Measure Review and Measure Set Review, available at: <https://p4qm.org/PRMR>, including details”.

24. On page 36287, first column, first paragraph, line 25, the phrase “Guidebook, including details” is corrected to read “Guidebook, available at: <https://p4qm.org/EM>, including details”.

25. On page 36292, lower two-thirds of the page:

a. First column, first footnote paragraph (footnote 227), lines 3

through 6, “available at both: <https://qualitynet.com.gov/inpatient/iqr/proposedmeasures> and <https://qualitynet.com.gov/pch/pchqr/proposedmeasures>.” is corrected to read “available at both: <https://qualitynet.cms.gov/inpatient/iqr/proposedmeasures> and <https://qualitynet.cms.gov/pch/pchqr/proposedmeasures>.”.

b. Second column, second paragraph, lines 6 through 8, the hyperlink “<https://qualitynet.com.gov/inpatient/iqr/proposedmeasures>.” is corrected to read “<https://qualitynet.cms.gov/inpatient/iqr/proposedmeasures>.”.

26. On page 36294, second column, seventh bulleted paragraph, lines 1 and 2, the phrase “During this hospital stay, did doctors,” is corrected to read “Did doctors,”.

27. On page 36304, top third of the page, in the table titled “TABLE IX.B.2–03 TIMELINES FOR CURRENT AND NEWLY PROPOSED HCAHPS SURVEY DIMENSIONS FOR THE HOSPITAL VBP PROGRAM”, the fourth table note, lines 1 and 2, the phrase “we are proposing to remove the “Care Transition” dimension from scoring in the Hospital VBP Program beginning with the FY 2027 program year.” is corrected to read “we are proposing to not score the “Care Transition” dimension for the FY 2027 through FY 2029 program years, and to remove this dimension from the Hospital VBP Program beginning with the FY 2030 program year.”.

28. On page 36305, second column, first partial paragraph, line 12, the

phrase “was \$448.94” is corrected to read “was \$448.94 per stay”.

29. On page 36314, first column:

a. Second footnote paragraph (footnote 315), line 1, “CDC. (2023).” is corrected to read “CDC. (2024).”.

b. Fourth footnote paragraph (footnote 317), line 1, “CDC. (2022).” is corrected to read “CDC. (2024).”.

30. On page 36317, first column:

a. First footnote paragraph (footnote 349), line 1, the phrase “CDC. (2023).” is corrected to read “CDC. (2024).”.

b. Third footnote paragraph (footnote 351), line 1, the phrase “CDC. (2022).” is corrected to read “CDC. (2024).”.

31. On page 36320, third column, first full paragraph, lines 8 and 9, the parenthetical phrase “ASA categories 3 through 5)” is corrected to read “ASA category 3, ASA category 4 or 5)”.

32. On page 36323, first column, first paragraph, lines 2 and 3, the hyperlink “<https://qualitynet.cms.gov/inpatient/measures/psi>” is corrected to read “<https://qualitynet.cms.gov/inpatient/iqr/proposedmeasures#tab2>”.

33. On page 36325, first column, first paragraph, lines 14 and 15, the citation “(86 FR 45391 through 45392)” is corrected to read “(86 FR 45390 and 45391)”.

34. On page 36326, middle of the page, in the table titled “TABLE IX.C.3. PROPOSED FINAL PERFORMANCE PERIOD & PAYMENT DETERMINATION FOR AMI PAYMENT, HF PAYMENT, PN PAYMENT, AND/TKA PAYMENT MEASURES”, the table title and table are corrected to read as follows:

TABLE IX.C.3.: PROPOSED FINAL PERFORMANCE PERIOD AND PAYMENT DETERMINATION FOR AMI PAYMENT, HF PAYMENT, PN PAYMENT, AND THA/TKA PAYMENT MEASURES

Measure	Final Performance Period	Payment Determination
AMI Payment	July 1, 2020–June 30, 2023	FY 2025.
HF Payment	July 1, 2020–June 30, 2023	FY 2025.
PN Payment	July 1, 2020–June 30, 2023	FY 2025.
THA/TKA Payment	July 1, 2020–March 31, 2023	FY 2025.

35. On page 36329, bottom half of the page, second column, second full paragraph, line 16, the section reference “X.I.C.9.c.” is corrected to read “IX.C.9.c.”.

36. On page 36330, in the table titled “TABLE IX.C.5. MEASURES FOR THE FY 2026 PAYMENT DETERMINATION”, the second table note, line 3, the parenthetical phrase “(CBE #2879),” is corrected to read “(CBE #2879e),”.

37. On page 36332, in the table titled “TABLE IX.C.6. MEASURES FOR THE FY 2027 PAYMENT DETERMINATION”, first column (Short Name), under the entries for Electronic Clinical Quality Measures (eCQMs) (row 5), the short name “HH–OREA” is corrected to read “HH–ORAE”.

38. On page 36333, in the table titled “TABLE IX.C.7. MEASURES FOR THE FY 2028 PAYMENT DETERMINATION”, first column (Short Name), under the entries for Electronic Clinical Quality Measures (eCQMs) (row 37), the short name “HH–OREA” is corrected to read “HH–ORAE”.

39. On page 36335, in the table titled “TABLE IX.C.8. MEASURES FOR THE FY 2029 PAYMENT DETERMINATION AND FOR SUBSEQUENT YEARS”, first column (Short Name), under the entries for Electronic Clinical Quality Measures (eCQMs) (row 37), the short name “HH–OREA” is corrected to read “HH–ORAE”.

40. On page 36346, third column, first full paragraph:

a. Line 6, the reference “section IX.4.c.(1)” is corrected to read “section IX.E.4.c.(1).”.

b. Line 8, the reference “section IX.4.c.(2)” is corrected to read “section IX.E.4.c.(2).”.

c. Line 10, the reference “section IX.4.c.(3)” is corrected to read “section IX.E.4.c.(3).”.

41. On page 36350, first column, second footnote paragraph (footnote 525), lines 4 through 7, the sentence “LTCHs can monitor the Partnership for Quality Measurement website at <https://mmshub.cms.gov/get-involved/technical-expert-panel/updates>” is corrected to read “For updates, LTCHs can monitor the Partnership for Quality Measurement

website at <https://mmshub.cms.gov/get-involved/technical-expert-panel/updates>.”.

42. On page 36351, third column:

a. First full paragraph, line 1, the reference “section X.4.” is corrected to read “section IX.E.4.”.

b. Last full paragraph, line 1, the reference “Section X.E.4.e.” is corrected to read “section IX.E.4.e.”.

43. On page 36352, first column, second full paragraph:

a. Line 8, the reference “section X.4.c.(1)” is corrected to read “section IX.E.4.c.(1).”.

b. Line 10, the reference “section X.4.c.(2)” is corrected to read “section IX.E.4.c.(2).”.

c. Line 11, the reference “section X.4.c.(3)” is corrected to read “section IX.E.4.c.(3).”.

d. Line 19, the reference “section IX.4.e” is corrected to read “section IX.E.4.e.(3).”.

44. On page 36373, at the top of the page, in the table titled “TABLE IX.F.–05: PREVIOUSLY FINALIZED ECQMS FOR ELIGIBLE HOSPITALS AND CAHS FOR THE REPORTING PERIOD”, the title is corrected to read “TABLE IX.F.–05: PREVIOUSLY FINALIZED ECQMS FOR ELIGIBLE HOSPITALS AND CAHS FOR THE CY 2024 REPORTING PERIOD”.

45. On page 36374:

a. Top third of the page:

(1) First column, partial paragraph, line 13, the reference “section IX.F.2” is corrected to read “sections IX.C.5. and IX.C.7.”.

(2) Second column, second partial paragraph, lines 3 and 4, the reference “sections IX.C.5.c and IX.C.5.d.” is corrected to read “sections IX.C.5.c., IX.C.5.d., and IX.C.7.a.”.

b. Middle of the page, in the notes following the table titled “TABLE IX.F.–07: PREVIOUSLY FINALIZED AND PROPOSED ECQMS FOR ELIGIBLE HOSPITALS AND CAHS FOR THE CY 2026 REPORTING PERIOD”:

(1) First table note, line 2, the reference “IX.C” is corrected to read “IX.C.5.c.”.

(2) Second table note, line 2, the reference “IX.C” is corrected to read “IX.C.5.d.”.

(3) Third table note, line 2, the reference “IX.C” is corrected to read “IX.C.7.a.”.

46. On page 36375, top of the page, in the table titled “TABLE IX.F.–08: PREVIOUSLY FINALIZED AND PROPOSED ECQMS FOR ELIGIBLE HOSPITALS AND CAHS FOR THE CY 2027 REPORTING PERIOD AND SUBSEQUENT YEARS”, the third table note, line 2, the reference “IX.C.5.b.” is corrected to read “IX.C.7.a.”.

47. On page 36376, first column, third full paragraph, line 3, the phrase “eCQM measures to” is corrected to read “eCQMs to”.

48. On page 36378, second column, first partial paragraph, line 7, the phrase “(Ph.D.S) in 2023. The Ph.D.S” is corrected to read “(PHDS) in 2023. The PHDS”.

49. On page 36380, second column, third full paragraph, line 2, the phrase “CMS should consider?” is corrected to read “should CMS consider?”

50. On page 36413, third column, first footnote paragraph (footnote 592), lines 1 and 2, the hyperlink “https://www.cms.gov/icd10m/version38-fullcode-cms/fullcode_cms/P0008.html” is corrected to read “ICD-10-CM/PCS MS-DRG v41.1 Definitions Manual: https://www.cms.gov/icd10m/FY2024-version41.1-fullcode-cms/fullcode_cms/P0120.html”.

51. On page 36414:

a. First column:

(1) Fourth full paragraph:

(a) Lines 1 and 2, the phrase “Medicare FFS claims” is corrected to read “BPCI Advanced episode”.

(b) Line 7, the phrase “Based on that analysis, we” is corrected to read “Based on that analysis, after applying all BPCI Advanced episode-level exclusion and overlap policies, we”.

(2) First footnote paragraph (footnote 594), lines 1 and 2, the hyperlink “https://www.cms.gov/icd10m/version38-fullcode-cms/fullcode_cms/P0009.html” is corrected to read “ICD-10-CM/PCS MS-DRG v41.1 Definitions Manual: https://www.cms.gov/icd10m/FY2024-version41.1-fullcode-cms/fullcode_cms/P0159.html”.

b. Second column, first footnote paragraph (footnote 595), lines 1 through 7, the reference “Medical

Severity Diagnosis Related Groups (MS-DRGs): Definitions Manual. Version 33.0A. 3M Health Information Systems. (October 1, 2015). <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/FY2016-IPPS-Final-Rule-Home-Page-Items/FY2016-IPPS-Final-Rule-Data-Files.html>.” is corrected to read “Medicare Severity Diagnosis Related Groups (MS-DRGs): Definitions Manual. Version 41.1. 3M Health Information Systems. (April 1, 2024). https://www.cms.gov/icd10m/FY2024-version41.1-fullcode-cms/fullcode_cms/P0001.html.”

c. Third column, first footnote paragraph (footnote 596), lines 1 through 3, the reference “ICD-10-CM/PCS MS-DRG v38.0 Definitions Manual: https://www.cms.gov/icd10m/version38-fullcode-cms/fullcode_cms/P0011.html.” is corrected to read “ICD-10-CM/PCS MS-DRG v41.1 Definitions Manual: https://www.cms.gov/icd10m/FY2024-version41.1-fullcode-cms/fullcode_cms/P0011.html.”

52. On page 36415:
a. Second column, first footnote paragraph (footnote 597), lines 1 and 2, the reference, “<https://www.cms.gov/icd10m/version38-fullcode-cms/>

[fullcode_cms/P0008.html](https://www.cms.gov/icd10m/FY2024-version41.1-fullcode-cms/fullcode_cms/P0120.html).” is corrected to read “ICD-10-CM/PCS MS-DRG v41.1 Definitions Manual: https://www.cms.gov/icd10m/FY2024-version41.1-fullcode-cms/fullcode_cms/P0120.html.”

b. Third column, third full paragraph, line 8, the phrase “22633. Based on an analysis of 2021” is corrected to read “22633. We note that section II.C.6.b. of this proposed rule includes proposed changes to several of the spinal fusion MS-DRGs that are included here in the proposed definition for the spinal fusion episode category for TEAM. We also refer the reader to the draft version of the ICD-10 MS-DRG Definitions Manual, Version 42, on the CMS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/acute-inpatient-pps/ms-drg-classifications-and-software> to view the changes that we are proposing to the spinal fusion MS-DRGs for FY 2025. If finalized for FY 2025, as proposed in section II.C.6.b. of this proposed rule, rather than including MS-DRGs 453, 454, and 455, in the definition for the spinal fusion episode category, we would include the 8 new MS-DRGs: MS-DRG 426 (Multiple Level Combined Anterior and Posterior Spinal Fusion

Except Cervical with MCC), MS-DRG 427 (Multiple Level Combined Anterior and Posterior Spinal Fusion Except Cervical with CC), MS-DRG 428 (Multiple Level Combined Anterior and Posterior Spinal Fusion Except Cervical without CC/MCC), MS-DRG 402 (Single Level Combined Anterior and Posterior Spinal Fusion Except Cervical), MS-DRG 429 (Combined Anterior and Posterior Cervical Spinal Fusion with MCC), MS-DRG 430 (Combined Anterior and Posterior Cervical Spinal Fusion without MCC), MS-DRG 447 (Multiple Level Spinal Fusion Except Cervical with MCC) and MS-DRG 448 (Multiple Level Spinal Fusion Except Cervical without MCC). In addition, as discussed in section II.C.6.b. of this proposed rule, if finalized, we would use the revised titles for existing MS-DRGs 459 and 460, “Single Level Spinal Fusion Except Cervical with MCC and without MCC”, respectively. Based on an analysis of 2021”.

53. On page 36416, middle of the page, in the table titled “TABLE X.A.—04: PROPOSED EPISODE CATEGORIES AND BILLING CODES”:

a. The entry for “Spinal fusion” is corrected to read as follows:

TABLE X.A.—04: PROPOSED EPISODE CATEGORIES AND BILLING CODES

Episode Category	Billing Codes (MS-DRG/HCPCS)
Spinal fusion	MS-DRG 453*, 454*, 455*, 459, 460, 471, 472, 473. HCPCS 22551, 22554, 22612, 22630, 22633.

b. Corrected by adding a table note to read as follows:

“* We note that, if the proposed changes to the spinal fusion MS-DRGs included in section II.C.6.b. of this proposed rule for FY 2025 are finalized, the spinal fusion episode category would not include MS-DRGs 453, 454 or 455, and would instead include the 8 new spinal fusion MS-DRGs: 426, 427, 428, 402, 429, 430, 447, and 448.”.

54. On page 36418, second column, after the 13th bulleted paragraph that begins “• 22633” and before the paragraph that begins “Major small and large bowel procedure MS-DRGs—” is corrected by adding a paragraph to read as follows:

“We note that section II.C.6.b. of this proposed rule includes proposed changes to several of the spinal fusion MS-DRGs that are included here in the proposed definition for the spinal fusion clinical episode category for TEAM. If the proposed changes to the spinal fusion MS-DRGs in section II.C.6.b of this proposed rule for FY 2025 are finalized, rather than using MS-DRGs

453, 454, and 455 in the spinal fusion episode category, we would use the 8 new MS-DRGs: MS-DRG 426 (Multiple Level Combined Anterior and Posterior Spinal Fusion Except Cervical with MCC), MS-DRG 427 (Multiple Level Combined Anterior and Posterior Spinal Fusion Except Cervical with CC), MS-DRG 428 (Multiple Level Combined Anterior and Posterior Spinal Fusion Except Cervical without CC/MCC), MS-DRG 402 (Single Level Combined Anterior and Posterior Spinal Fusion Except Cervical), MS-DRG 429 (Combined Anterior and Posterior Cervical Spinal Fusion with MCC), MS-DRG 430 (Combined Anterior and Posterior Cervical Spinal Fusion without MCC), MS-DRG 447 (Multiple Level Spinal Fusion Except Cervical with MCC) and MS-DRG 448 (Multiple Level Spinal Fusion Except Cervical without MCC). In addition, if finalized as proposed in section II.C.6.b. of this proposed rule, we would use the revised titles for the existing MS-DRGs 459 and 460, “Single Level Spinal Fusion Except

Cervical with MCC and without MCC”, respectively.”.

55. On page 36449, first column, second footnote paragraph (footnote 678), lines 2 through 3, the hyperlink “<https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health>.” is corrected to read “<https://wayback.archive-it.org/5774/20220413203948/https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health>.”.

56. On page 36451, third column, first footnote paragraph (footnote 696), lines 4 through 6, the hyperlink “<https://www.commonwealthfund.org/sites/default/files/2019-07/ROI-EVIDENCE-REVIEW-FINAL-VERSION.pdf>.” is corrected to read “https://www.commonwealthfund.org/sites/default/files/2019-07/COMBINED_ROI-EVIDENCE_REVIEW_7.15.19.pdf.”.

B. Corrections of Errors in the Appendices

1. On page 36611, first column, second footnote paragraph (footnote

857), lines 1 through 3, the hyperlink “<https://health.gov/healthypeople/priority-areas/social-determinants-health>.” is corrected to read “<https://wayback.archive-it.org/5774/20220413203948/https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health>.”.

2. On page 36621, second column, second paragraph, line 1, the reference “Table I.G.8.–01” is corrected to read “Table I.G.7.–01”.

3. On page 36642, second column, second full paragraph, lines 4 and 5, the reference “section XII.B.7.” is corrected to read “section XII.B.8.”.

Elizabeth J. Gramling,

*Executive Secretary to the Department,
Department of Health and Human Services.*

[FR Doc. 2024–12164 Filed 5–31–24; 4:15 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 11, 73, and 74

[MB Docket No. 17–105, MB Docket No. 20–401; Report No. 3213; FR ID 222907]

Petitions for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

SUMMARY: Petitions for Reconsideration (Petitions) has been filed in the Commission’s proceeding by Robert McAllan, on behalf of Press Communications, LLC and Michelle Bradley, on behalf of REC Networks.

DATES: Oppositions to the Petition must be filed on or before June 20, 2024. Replies to oppositions to the Petition must be filed on or before July 1, 2024.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Irene Bleiweiss, Irene.Bleiweiss@fcc.gov, or Albert Shuldiner, Albert.Shuldiner@fcc.gov, of the Media Bureau, Audio Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s document, Report No. 3213, released May 23, 2024. The full text of the Petition can be accessed online via the Commission’s Electronic Comment Filing System at: <https://apps.fcc.gov/ecfs/>. The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Number of Petitions Filed: 2.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–12174 Filed 6–3–24; 8:45 am]

BILLING CODE 6712–01–P

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

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

Comments regarding these information collections are best assured of having their full effect if received by July 5, 2024. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

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

the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service (NASS)

Title: Milk and Milk Products.

OMB Control Number: 0535–0020.

Summary of Collection: The National Agricultural Statistics Service's primary function is to prepare and issue official State and national estimates of crop and livestock production, disposition, and prices and to collect information on related environmental and economic factors. Estimates of milk production and manufactured dairy products are an integral part of this program. Milk and dairy statistics are used by the U.S. Department of Agriculture to help administer price support programs and by the dairy industry in planning, pricing, and projecting supplies of milk and milk products.

General authority for these data collection activities is granted under U.S. Code title 7, section 2204. The legislative actions which affect these surveys are from November 2000, when Congress enacted the “Dairy Market Enhancement Act of 2000,” U.S. Code title 7, section 1621, and Public Law 106–532 which changed the program from voluntary to mandatory for reporting the moisture content of cheddar cheese plus the price and quantity of cheddar cheese, butter, non-fat dry milk, and dry whey.

Amendments have been published to the Agricultural Marketing Act of 1946 in conformance with legislated changes enacted by the Dairy Market Enhancement Act of 2000 and the Farm Security and Rural Development Act of 2002. The amendments established a program of mandatory dairy product information reporting. The program requires each manufacturer to report to the USDA information concerning the price, quantity, and moisture content of dairy products sold by the manufacturer. In addition, entities storing dairy products are to report information on the quantity of dairy products stored. Any manufacturer or other entity that processes, markets, or stores less than 1,000,000 pounds of dairy products per year are exempt. The program will provide timely, accurate, and reliable market information; facilitate more informed marketing decisions; and promote competition in

the dairy product manufacturing industry.

In April 2012 the authority for collecting Dairy Product Prices was moved from NASS to the Agricultural Marketing Service (AMS). NASS will continue to collect milk production and manufactured dairy product data under this OMB approval.

Need and Use of the Information: NASS will collect information quarterly with the Milk Production Survey. The monthly Milk and Milk Products surveys obtain basic agricultural statistics on milk production and manufactured dairy products from farmers and processing plants throughout the nation. Data are gathered for milk production, evaporated and condensed milk, dairy products, manufactured dry milk and manufactured whey products. Estimates of total milk production, number of milk cow, and milk production per cow, are used by the dairy industry in planning, pricing, and projecting supplies of milk and milk products. The mandatory dairy product information reporting requires each manufacturer to report the price, quantity and moisture content of dairy products sold and each entity storing dairy products to report information on the quantity of dairy products stored. Collecting data less frequently would prevent USDA and the agricultural industry from keeping abreast of changes at the State and National level.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 14,475.

Frequency of Responses: Reporting: Quarterly; Monthly; Annually.

Total Burden Hours: 11,596.

National Agricultural Statistics Service (NASS)

Title: Hemp Production and Disposition Inquiry.

OMB Control Number: 0535–0270.

Summary of Collection: As defined in the 2018 Farm Bill, the term “hemp” means the plant species *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Delta-9 tetrahydrocannabinol, or THC, is the primary intoxicating component of cannabis. Cannabis with a THC level

exceeding 0.3 percent is considered marijuana, which remains classified as a schedule I controlled substance regulated by the Drug Enforcement Administration (DEA) under the Controlled Substances Act (CSA). Under the Agricultural Act of 2014 (2014 Farm Bill), Public Law 113–79, State departments of agriculture and institutions of higher education were permitted to produce hemp as part of a pilot program for research purposes. The authority for hemp production provided in the 2014 Farm Bill was extended by the 2018 Farm Bill, which was signed into law on December 20, 2018.

Hemp is a commodity that can be used for numerous industrial and horticultural purposes including fabric, paper, construction materials, food products, cosmetics, production of cannabinoids (such as cannabidiol or CBD), and other products.

In determining the type of data that would need to be collected and the frequency of the data collections, NASS management attended a joint meeting with representatives from the USDA's Economic Research Service (ERS), Farm Service Agency (FSA), Risk Management Agency (RMA), Agricultural Marketing Service (AMS), and the Office of the Secretary.

Need and Use of the Information: The data will be collected under the authority of the Domestic Hemp Production Program, which is mandated by the Agriculture Improvement Act of 2018 (2018 Farm Bill). In addition the data will be collected under the authority of Title 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, *et seq.*), and Office of Management and Budget regulations at 5 CFR part 1320.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 8,525.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 2,918.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–12216 Filed 6–3–24; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2024–0018]

Notice of Request for Extension of Approval of an Information Collection; Control and Eradication of African Swine Fever; Conditions for Payment of Indemnity Claims

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the payment of indemnity claims related to African swine fever.

DATES: We will consider all comments that we receive on or before August 5, 2024.

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

- **Federal eRulemaking Portal:** Go to www.regulations.gov. Enter APHIS–2024–0018 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- **Postal Mail/Commercial Delivery:** Send your comment to Docket No. APHIS–2024–0018, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at www.regulations.gov or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on foreign quarantine notices, contact Ms. Lecresha King, Program Analyst, National Preparedness and Incident Coordination, Strategy and Policy, VS, APHIS, 920 Main Campus Drive, Raleigh, NC 27606; email: FAD.PReP.Comments@usda.gov; phone: (515) 380–5535. For more detailed information on the information collection process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2533.

SUPPLEMENTARY INFORMATION:

Title: Control and Eradication of African Swine Fever; Conditions for Payment of Indemnity Claims.

OMB Control Number: 0579–0491.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Secretary of the U.S. Department of Agriculture (USDA) is authorized to protect the health of the livestock, poultry, and aquaculture populations in the United States by preventing the introduction and interstate spread of serious diseases and pests of livestock, poultry, and aquaculture, and for eradicating such diseases and pests from the United States, when feasible. Within the USDA, this authority and mission is delegated to the Animal and Plant Health Inspection Service (APHIS).

Part of the mission of the Veterinary Services (VS) business unit of APHIS is preventing foreign animal disease outbreaks in the United States, and monitoring, controlling, and eliminating a disease outbreak should one occur. In the past several years, there have been significant worldwide outbreaks of African swine fever (ASF). ASF is a highly contagious and deadly viral disease affecting both domestic and feral (wild) pigs. Herd mortality can reach 100 percent and animals contracting the disease can die in as little as a week, necessitating a rapid response. The disease is also highly resistant to the environment, meaning it can easily be spread by being on clothes, shoes, wheels, or other materials, or in pork products. If ASF entered the United States, it could halt U.S. pork exports, as trading partners would not accept products from a country with ASF; cut pork and hog prices by up to 50 percent; and cause widespread disruptions in hog and pork production.

The disease has not been detected in the United States; however, USDA is committed to working with State and industry partners to keep the virus out of the country. In the event of an ASF detection, USDA will declare an extraordinary emergency and establish an animal movement standstill to coordinate a national control and eradication approach. USDA will work with States and industry to depopulate infected premises, compensate affected owners, and institute herd plans.

To accomplish this, APHIS will implement various information collection activities related to an outbreak such as processing appraisal and indemnity requests and appraisal and indemnity claims, assisting with preparing worksheets for calculating proceeds from animals or materials sold

for slaughter, approving domestic herd plans and financial plans, and administering an ASF response epidemiology questionnaire.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 4.882 hours per response.

Respondents: Agricultural producers, animal scientists and technicians, agricultural inspectors, and State animal health officials.

Estimated annual number of respondents: 40,050.

Estimated annual number of responses per respondent: 13.

Estimated annual number of responses: 519,950.

Estimated total annual burden on respondents: 2,538,300 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 2nd day of May 2024.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2024-12139 Filed 6-3-24; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Forest Service

Solicitation of Nominations for Membership for the Pacific Northwest Region Recreation Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Solicitation of nominations for membership.

SUMMARY: The United States Department of Agriculture is seeking nominations for the Pacific Northwest Region Recreation Resource Advisory Committee (Pacific Northwest Region Recreation RAC) pursuant to the authority of the Federal Lands Recreation Enhancement Act and the Federal Advisory Committee Act (FACA), as amended. The Pacific Northwest Region Recreation RAC will provide recommendations to the Secretary of Agriculture on recreation fees on lands and waters managed by the Forest Service and the Department of the Interior's Bureau of Land Management in the regions covered by each committee. The Pacific Northwest Region Recreation RAC will be governed by the provisions of FACA. Duration of the Pacific Northwest Region Recreation RAC is for two years unless renewed by the Secretary.

DATES: Nominations must be submitted via email or postmarked by June 28, 2024.

ADDRESSES: Nominations and resumes may be submitted to the Secretary of Agriculture through the Forest Service Recreation Resource Advisory Committee, Pacific Northwest Regional Office, Edith Green—Wendell Wyatt Federal Building, 1220 SW 3rd Ave., Portland, OR 97204 or via email to sm.fs.r6_rrac@usda.gov.

FOR FURTHER INFORMATION CONTACT:

Inquiries may be sent to Nicole LaGioia, Recreation Resource Advisory Committee, Pacific Northwest Region, Pacific Northwest Regional Office, Edith Green—Wendell Wyatt Federal Building, 1220 SW 3rd Ave., Portland, OR 97204; by phone at 360-765-2227 or via email to sm.fs.r6_rrac@usda.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Federal Lands Recreation Enhancement Act (Pub. L. 108-447) and the Federal Advisory Committee Act (5 U.S.C. 10), notice is hereby given the Secretary of Agriculture's intent to solicit members. Additional information on the Pacific Northwest Region Recreation RAC can be found by visiting the committee website at [https://](https://www.fs.usda.gov/main/r6/workingtogether/advisorycommittees)

www.fs.usda.gov/main/r6/workingtogether/advisorycommittees.

Pacific Northwest Region Recreation RAC Membership

The Pacific Northwest Region Recreation RAC will be comprised of 11 members approved by the Secretary of Agriculture where each member will serve a two or three-year term. Memberships shall include representation from the following interest areas:

1. Five persons who represent:
 - a. Winter motorized recreation such as snowmobiling;
 - b. Winter non-motorized recreation such cross-country skiing or snowshoeing;
 - c. Summer motorized recreation such as motorcycling, boating, and off-highway vehicle driving;
 - d. Summer non-motorized recreation such as hiking, horseback riding, mountain biking, canoeing, and rafting; and
 - e. Hunting and fishing.
2. Three persons who represent:
 - a. Motorized outfitters and guides;
 - b. Non-motorized outfitters and guides; and
 - c. Local environmental groups.
3. Three persons who represent:
 - a. State tourism official representing the State;
 - b. A representative of affected Indian tribes; and
 - c. A representative of affected local government interests.

Membership Nomination Information

The appointment of members to the Pacific Northwest Region Recreation RAC will be made by the Secretary of Agriculture, or their designee. Any interested person or organization may nominate qualified individuals for membership. Interested candidates may nominate themselves. Individuals who wish to be considered for membership on the committee must submit a nomination with information, including a background disclosure form (Form AD-755; <https://www.usda.gov/sites/default/files/documents/ad-755.pdf>). Nominations should be typed and include the following information:

1. If nominating an individual, a brief summary, no more than two pages, explaining the nominee's qualifications to serve on the committee and addressing the membership composition and criteria described above.
2. A resume providing the nominee's background, experience, and educational qualifications.
3. A completed background disclosure form (Form AD-755) signed by the nominee.

4. Letters of endorsement are optional.

Persons with disabilities who require alternative means of communication for program information (Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at 202-720-2600 (voice and TTY) or contact 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 committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities. USDA is an equal opportunity provider, employer, and lender.

Dated: May 29, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024-12126 Filed 6-3-24; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket #: RBS-24-BUSINESS-0009]

Notice of Revision of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 the Rural Business-Cooperative Service (RBCS or Agency), an agency within the United States Department of Agriculture

(USDA), Rural Development (RD), announces its intention to request a revision to a currently approved information collection package for Rural Energy for America (REAP) program. The Agency invites comments on this information collection for which it intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by August 5, 2024 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT:

Katherine Anne Mathis, RD Innovation Center—Regulations Management Division, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250, Telephone: 202-713-7565, email: Katherine.mathis@usda.gov.

SUPPLEMENTARY INFORMATION: The OMB regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for extension.

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be submitted electronically by the Federal eRulemaking Portal, <https://www.regulations.gov/>. In the "Search for dockets and documents on agency actions" box enter the Docket No. RBS-24-BUSINESS-0009 and click the "Search" button. From the search results, click on or locate the document title: "Notice of Revision of a Currently Approved Information Collection" and select the "Comment" button. Before inputting comments, commenters may review the "Commenter's Checklist" (optional). To submit a comment: Insert

comments under the "Comment" title, click "Browse" to attach files (if available), input email address, select box to opt to receive email confirmation of submission and tracking (optional), select the box "I'm not a robot," and then select "Submit Comment."

Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "FAQ" link. All comments will be available for public inspection online at the Federal eRulemaking Portal (www.regulations.gov).

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, failure to provide data could result in program benefits being withheld or denied.

Title: Rural Energy for America (REAP) program.

OMB Control Number: 0570-0067.

Type of Request: Revision of a currently approved information collection under 7 CFR part 4280, subpart B.

Abstract: The primary purpose of REAP is to provide guaranteed loan financing and grant funding to agricultural producers and rural small businesses for renewable energy systems (RES) or to make energy efficiency improvements (EEI). RES and EEI projects will be scored and awarded in accordance with 7 CFR 4280.122 through 123. The REAP program also offers grant funding to assist agricultural producers and rural small businesses to conduct energy audits (EA) and provide recommendations and information on renewable energy development assistance (REDA). EA and REDA projects will be scored and awarded in accordance with 7 CFR 4280.155 through 156.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.21 hours per response.

Respondents: Nonprofit corporations and institutions of higher education.

Estimated Number of Respondents: 4,276.

Estimated Number of Responses per Respondent: 23.12.

Estimated Number of Responses: 98,866.

Estimated Total Annual Burden on Respondents: 218,364 hours.

Copies of this information collection can be obtained from Katherine Anne Mathis, RD Innovation Center—Regulations Management Division, Telephone: 202–713–7565, email: Katherine.mathis@usda.gov.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Kathryn E. Dirksen Londrigan,

Administrator, Rural Business-Cooperative Service, USDA Rural Development.

[FR Doc. 2024–12228 Filed 6–3–24; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

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

DATES: Applicable June 4, 2024.

SUMMARY: The U.S. Department of Commerce (Commerce) hereby publishes a list of scope rulings and circumvention determinations made during the period October 1, 2023, through December 31, 2023. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT:

Marcia E. Short, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–1560.

SUPPLEMENTARY INFORMATION:

Background

Commerce regulations provide that it will publish in the **Federal Register** a list of scope rulings on a quarterly basis.¹ Our most recent notification of scope rulings was published on December 13, 2023.² This current notice covers all scope rulings made by Enforcement and Compliance between October 1, 2023, and December 31, 2023.

Scope Rulings Made October 1, 2023, Through December 31, 2023

Bahrain

A–525–001 and C–525–002: Common Alloy Aluminum Sheet From Bahrain

Requestor: FCC Metals LLC. Finished aluminum coil for use in roofing products is covered by the scope of the antidumping and countervailing duty orders on common alloy aluminum sheet from Bahrain because the merchandise produced and exported from Bahrain and further processed in Jordan entered the United States as in-scope merchandise; November 8, 2023.

India

A–533–883 and C–533–884: Glycine From India

Requestor: GEO Specialty Chemicals, Inc. Calcium glycinate is not covered by the scope of the antidumping or countervailing duty orders on glycine from India, because calcium glycinate is a precursor of glycine and calcium glycinate is not a type of glycine; October 11, 2023.

A–533–865 and C–533–866: Certain Cold-Rolled Steel Flat Products From India

Requestor: SIGMA Corporation. An end module side cover and certain cable tray connection brackets are not covered by the scope of the antidumping or countervailing duty orders on certain cold-rolled steel flat products from India because they are not cold-rolled flat-rolled steel products but are components of modular battery storage assemblies; December 13, 2023.

Japan

A–588–878: Glycine From Japan

Requestor: GEO Specialty Chemicals, Inc. Calcium glycinate is not covered by the scope of the antidumping duty order on glycine from Japan because calcium glycinate is a precursor of glycine and calcium glycinate is not a type of glycine; October 11, 2023.

People's Republic of China (China)

C–570–081: Glycine From China

Requestor: GEO Specialty Chemicals, Inc. Calcium glycinate is not covered by the scope of the countervailing duty order on glycine from China because calcium glycinate is a precursor of glycine and calcium glycinate is not a type of glycine; October 11, 2023.

A–570–967 and C–570–968: Aluminum Extrusions From China

Requestor: Wagner Spray Tech Corporation. Wagner Spray Tech Corporation's part number 805–324

manifold is covered by the scope of the antidumping and countervailing duty orders on aluminum extrusions from China because it does not satisfy the design and testing requirements that would qualify for the “finished heat sink” exception to the orders; October 17, 2023.

A–570–890: Woodend Bedroom Furniture From China

Requestor: Moe's Home Collection Inc. Certain case pieces of furniture are covered by the scope of the antidumping duty order on wooden bedroom furniture from China because they are physically consistent with certain types of wooden bedroom furniture, in some cases were suitable for storing clothes, and were advertised as bedroom furniture; November 22, 2023.

A–570–131 and C–570–132: Twist Ties From China

Requestor: Essential Ribbons, Inc. The twist tie component of twist ties attached with bows are covered by the orders. Commerce determined the twist tie component was within the scope of the orders based on an analysis under 19 CFR 351.225(k)(3). First, Commerce examined the merchandise as a whole and found it had multiple components because it was described as having two pieces with different functions and the pieces were either not attached or attached by a single stitch. Then Commerce examined the twist tie component and found it was explicitly covered by the scope in both function and physical description. Finally, Commerce examined if the inclusion of the twist tie with the attachable bow resulted in an exclusion of the scope inquiry merchandise from the scope of the orders. Since there is no exclusion for a twist tie that is a component of merchandise that has a bow, Commerce found the twist tie was not excluded from the orders. The twist tie component of twist ties attached with bows is, therefore, covered by the scope of the orders; November 27, 2023.

A–570–095 and C–570–096: Aluminum Wire and Cable From China

Requestor: Imperium Cables, LLC. (Imperium). Imperium's Type SER and Type URD aluminum conductor cables that are manufactured in Korea by Pusan Cables & Engineering Co., Ltd., and incorporate aluminum wire cable that is produced in China by Hebei Huatong Wires and Cables Group Co., Ltd. (Hebei Huatong), are not covered by the scope of the antidumping and countervailing duty orders, because the aluminum wire produced by Hebei

¹ See 19 CFR 351.225(o).

² See *Notice of Scope Rulings*, 88 FR 86320 (December 13, 2023).

Huatong is uninsulated and, therefore, does not meet the criterion of the scope. The scope of the orders provides that “at least one of the electrical conductors is insulated.” December 4, 2023.

A-570-117: Wood Mouldings and Millwork Products From China

Requestor: Chicago Dowel Company Inc. Small diameter wood dowels are covered by the scope of the antidumping and countervailing duty orders on wood mouldings and millwork products from China because they are made of wood, continuously shaped wood, and in the form of dowels: December 11, 2023.

Taiwan

A-583-865: Certain Carbon Alloy Steel Threaded Rod From Taiwan

Requestor: Component Technology International, Inc. Four types of collared studs (*i.e.*, part numbers 2003.1027CTI, 2012.0306, 1405307CTI, and 1448160CTI) are not covered by the scope of the antidumping duty order because they are headed, not straight, and three of the four parts do not have a circular diameter. The scope excludes headed products and secondary sources support finding that these four types of certain collared studs are headed, and, thus, not covered. We issued the final decision on October 6, 2023.

A-583-865: Certain Carbon Alloy Steel Threaded Rod From Taiwan

Requestor: Component Technology International, Inc. Five types of collared studs (*i.e.*, part numbers AF020710, B34-6005, 5445362/CTI, 2003.2021, and HW100149) are not covered by the scope of the antidumping duty order because they are headed, not straight, and do not have a circular diameter. The scope excludes headed products and secondary sources support finding that these five types of certain collared studs are headed, and, thus, not covered. We issued the final decision on November 17, 2023.

Thailand

A-549-837: Glycine From Thailand

Requestor: GEO Specialty Chemicals, Inc. Calcium glycinate is not covered by the scope of the antidumping duty order on glycine from Thailand because calcium glycinate is a precursor of glycine and calcium glycinate is not a type of glycine: October 11, 2023.

Notification to Interested Parties

Interested parties are invited to comment on the completeness of this list of completed scope inquiries and scope/circumvention inquiry

combinations made during the period October 1, 2023, through December 31, 2023. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, via email to CommerceCLU@trade.gov.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: May 29, 2024.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024-12171 Filed 6-3-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Fermi Research Alliance, et al.; Notice of Decision on Application for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301). On March 22, 2024, the Department of Commerce published a notice in the **Federal Register** requesting public comment on whether instruments of equivalent scientific value, for the purposes for which the instruments identified in the docket(s) below are intended to be used, are being manufactured in the United States. See *Application(s) for Duty-Free Entry of Scientific Instruments*, 89FR20426-27, (Notice). We received no public comments regarding the instruments in docket numbers: 24-001; 24-002; 24-005; 24-007. We did receive comments, from SRI International, regarding the instruments in docket numbers: 24-003; 24-004; 24-006; and 24-008.

Comments: In its comments regarding the instruments in docket numbers: 24-003; 24-004; 24-006; and 24-008, SRI International claims that currently, no domestic manufacturer offers an off-the-shelf or custom-made item of equivalent scientific value. Decision: Approved. We know of no instrument of equivalent scientific value to the foreign instrument described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order.

Docket Number: 24-001. Applicant: Fermi Research Alliance, P.O. Box 500, Batavia, IL 60510. Instrument: Helium Refrigeration/Liquification Plant and accompanying accessories. Manufacturer: Air Liquide, France. Intended Use: The PIP II linear

accelerator will provide unparalleled achievement in particle acceleration. These accelerated particles will be born at the FNAL site in Batavia, IL and accelerated via the PIP II linear accelerator through the Earth approximately 900 miles west into the Deep Underground Neutrino Experiment (DUNE) located in Lead, SD, to discover whether neutrinos violate the fundamental matter-antimatter symmetry of physics. The design, research, development, and results from the construction and use of the PIP II Linear Accelerator will be the subject of high energy physics and physics engineering courses at dozens of domestic and international institutions of higher education. No specific course titles are available at this time, but the information will be extensively discussed and challenged at college and university classrooms for years to come.

Docket Number: 24-002. Applicant: Washington University in St. Louis, One Brookings Drive, St. Louis, MO 63130-4899. Instrument: Two-Dimensional Material Metallographic Microscopic Transfer System. Manufacturer: HIGH HOPE ZHONGDING CORPORATION, China. Intended Use: The instrument is intended to be used for all general two-dimensional (2D) materials like graphene, molybdenum sulfide, black phosphorus, 2D magnetic et al., to perform a comprehensive set of optical experiments aimed at elucidating optical and magnetic properties of superlattices based on 2D materials et al. The main objective is to create new quantum materials as designed, to study exotic quantum states, which is crucial for the evolution of optical, electronic and information technologies of the future. This transfer stage is particularly developed for cutting-edge technology in the fabrication and manipulation of two-dimensional materials, which is crucial for researchers in these fields.

Docket Number: 24-003. Applicant: University of Colorado JILA Department, Campus Box 440 UCB, JILA Building, Room S/175, Boulder, CO 80309. Instrument: Narrow Linewidth Laser. Manufacturer: Shanghai Precilasers Technology Co, Ltd., China. Intended Use: The instrument will be intended to be used for Quantum simulation using Lithium atoms in a cryogenic environment. Ultracold Lithium atoms will be used for studies of the Fermi-Hubbard model, which are an ideal platform for such studies due to their broadly tunable interactions with Feshbach resonances. Observation will determine whether low temperature phases of the Fermi-Hubbard model can be revealed by performing our experiments within a cryogenically

pumped environment to improve the evaporatively cooled gas temperatures due to suppression of hole-induced heating.

Docket Number: 24–004. Applicant: University of Colorado JILA Department, 1900 Colorado Avenue, Campus Box 440 UCB, Boulder, CO 80309. Instrument: Fiber Laser. Manufacturer: Shanghai Precilasers Technology Co., China. Intended Use: The instrument is intended to be used for research that will be conducted on barely interacting Strontium (Sr) atoms confined and cooled by lasers down to extremely cold temperatures, below 1 microkelvin. The frequency of transition to a highly stable state in Sr atoms can be used as the reference of the unit of time. To realize the atomic clock operation, precision quantum spectroscopy experiment will be performed to measure the transition frequency. The laser claimed for the duty-exemption is an 813 nm fiber laser module with a single-mode continuous-wave (CW) output power of 10 W, which will be used for setting up the 813 nm magic-wavelength optical lattice for our experiment. The Sr atoms are thus confined in each lattice node while showing minimally perturbed transition frequency. The research is conducted by graduated students at the University of Colorado as field training in their degree programs.

Docket Number: 24–005. Applicant: University of Florida, P.O. Box 118525, Gainesville, FL 32611. Instrument: UniPrep2 for determining hydrogen isotopic composition. Manufacturer: EuroVectro, Italy. Intended Use: The instrument Uniprep2 is intended to be used in the measurement of hydrogen isotope composition of complex organic samples to control hydrogen-isotope exchange and for sample drying and vapor equilibration. The properties of the materials studied are that they have exchangeable hydrogen and residual moisture contamination. This instrument helps to address those complications that can have biased results.

Docket Number: 24–006. Applicant: University of Colorado JILA Department, Campus Box 440 UCB, JILA Building, Room S/175, Boulder, CO 80309. Instrument: Narrow linewidth laser@2923nm. Manufacturer: Shanghai Precilasers Technology Co., Ltd, China. Intended Use: The instrument is intended to be used to study continuous superradiant lasing from Strontium atoms. The lasing will be induced in part using the lasing system purchased. The laser will be used to perform experiments that will demonstrate (for the first time anywhere) continuous

superradiant lasing. The laser will be used to cool the atoms to a few millionths of a degree above absolute zero. To achieve these goals, we require a narrowlinewidth laser source (<50kHz) with high output power (>400mW) at 2923 nm for laser cooling and trapping Strontium atoms using the internal levels 3P2 to 3D3.

Docket Number: 24–007. Applicant: University of Massachusetts Amherst, Department of Polymer Science and Engineering, 120 Governors Drive, Amherst, MA 01003. Instrument: Food Elasticity Measurement System. Manufacturer: Changfu Technology (Beijing) Company, Ltd., China. Intended Use: The instrument is intended to be used for rubber elasticity—The system allows for measuring properties such as elastic modulus, stress-strain relationship, and resilience of rubber materials; Food texture temperature response and elasticity, with the temperature control unit, the system enables studying how food textures change in elasticity and firmness with temperature variations; and Polymer glass thermal analysis—the system's thermal analysis capabilities facilitate the examination of heat conduction properties in polymer glasses, including thermal conductivity and heat transfer behavior.

Docket Number: 24–008. Applicant: Harvard University, Department of Physics, 17 Oxford Street, Jefferson Laboratory, Cambridge, MA 02138. Instrument: (1) 703nm single frequency fiber laser, (1) 1080nm single-frequency fiber laser. Manufacturer: Shanghai Precilaser Technology, Co., Ltd., China. Intended Use: The instruments are intended to be used in support of the Advanced Cold Molecule Electron Electric Dipole Moment Experiment (ACME EDM experiment), a collaborative physics experiment now between Harvard University, Northwestern University, and University of Chicago. The goal of the ACME project is to shed light on the reasons for why there is more matter than antimatter in the universe through the measurement of properties of the Thorium-232 Monoxide molecules.

Dated: May 29, 2024.

Gregory W. Campbell,

Director, Subsidies and Economic Analysts, Enforcement and Compliance.

[FR Doc. 2024–12170 Filed 6–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewal of the United States Manufacturing Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of charter renewal and recruitment.

SUMMARY: On March 22, 2024, the charter of the United States Manufacturing Council (Council) was renewed for a two-year period, ending March 22, 2026. The Council is a Federal advisory committee under the Federal Advisory Committee Act, as amended.

ADDRESSES: For information on the Council charter renewal, please visit: <https://www.facadatabase.gov/FACA/s/FACACouncil/a10t0000001gzmbAAA/com000200>.

FOR FURTHER INFORMATION CONTACT: Jaron Bass—telephone: 202–839–2357, email: Jaron.Bass@trade.gov or Cornelius Gyamfi—telephone: 202–839–4372, email: Cornelius.Gyamfi@trade.gov.

Dated: May 29, 2024.

Jaron Bass,

Designated Federal Officer, Office of Transportation and Machinery.

[FR Doc. 2024–12156 Filed 6–3–24; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

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

ACTION: Notice of closed meeting.

SUMMARY: The Judges Panel of the Malcolm Baldrige National Quality Award (Judges Panel) will meet in closed session on Thursday, June 20, 2024, from 12 p.m. to 6 p.m. eastern time. The purpose of this meeting is to review the results of examiners' ratings of Baldrige Award applications. Panel members will vote on which applicants merit site visits by examiners to validate the results and resilience, as well as the quality improvements and innovations, claimed by applicants. The meeting is closed to the public in order to protect the proprietary data to be examined and discussed.

DATES: The meeting will be held on Thursday, June 20, 2024, from 12 p.m. to 6 p.m. eastern time. The entire meeting will be closed to the public.

ADDRESSES: The meeting will be held virtually via web conference.

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, telephone number (301) 975–2361, email robert.fangmeyer@nist.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the FACA, notice is hereby given that the Judges Panel of the Malcolm Baldrige National Quality Award will meet on Thursday, June 20, 2024, from 12 p.m. to 6 p.m. eastern time. The Judges Panel is composed of nine members, appointed by the Secretary of Commerce, with a balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. Members are selected for their familiarity with quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, nonprofits, health care providers, and educational institutions. The purpose of this meeting is to review the results of examiners' scoring of written applications. Panel members will vote on which applicants merit site visits by examiners to verify the accuracy of quality improvements claimed by applicants. The meeting is closed to the public in order to protect the proprietary data to be examined and discussed. Pursuant to 41 CFR § 102–3.150(a)(6), written comments may be submitted to the Judges Panel. Please contact Mrs. Robyn Decker by email at robyn.verner@nist.gov; Mailing Address: NIST c/o Robyn Decker 100 Bureau Drive, MS 1020 Gaithersburg, MD 20899; or 301–975–2361. Please provide her with your name, email, and phone number, and your written comment for the Judges Panel.

The Deputy Assistant Secretary for Administration performing the non-exclusive functions and duties of the Chief Financial Officer and Assistant Secretary for Administration, with the concurrence of the Assistant General Counsel for Employment, Litigation, and Information, formally determined on May 24, 2024, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Public Law 94–409, that the meeting of the Judges Panel may be closed to the public in accordance with

5 U.S.C. 552b(c)(4) because the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and are privileged or confidential, and 5 U.S.C. 552b(c)(9)(B) because the meeting is likely to disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. The meeting, which involves examination of current Malcolm Baldrige National Quality Award (Award) applicant data from U.S. organizations and a discussion of these data as compared to the Award criteria in order to recommend Award recipients, will be closed to the public.

Authority: 15 U.S.C. 3711a(d)(1) and the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C. 1001 *et seq.*

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2024–12168 Filed 6–3–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Conference on Weights and Measures 2024 Annual Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The 109th Annual Meeting of the National Conference on Weights and Measures (NCWM) will be held at the Hotel Cleveland in Cleveland, Ohio from Sunday, July 14, 2024, through Thursday, July 18, 2024. This notice contains information about significant items on the NCWM Committee agendas but does not include all agenda items.

As a result, the items are not consecutively numbered.

DATES: The 2024 NCWM Annual Meeting will be held from Sunday, July 14, 2024, through Thursday, July 18, 2024. The meeting schedule will be available on the NCWM website at <https://www.ncwm.com/events-detail/2024-annual-OH>.

ADDRESSES: This meeting will be held at the Hotel Cleveland, located at 24 Public Square, Cleveland, Ohio 44113.

FOR FURTHER INFORMATION CONTACT: Dr. Katrice Lippa, NIST, Office of Weights and Measures, 100 Bureau Drive, Stop 2600, Gaithersburg, MD 20899–2600. You may also contact Dr. Lippa at (301) 975–3116 or by email at katrice.lippa@nist.gov. The meeting is open to the public, but the payment of a registration

fee is required. Please see the NCWM website (www.ncwm.com) to view the meeting agendas, registration forms, and hotel reservation information.

SUPPLEMENTARY INFORMATION:

Publication of this notice on the NCWM's behalf is undertaken as a public service and does not itself constitute an endorsement by the National Institute of Standards and Technology (NIST) of the content of the notice. NIST participates in the NCWM as an NCWM member and pursuant to 15 U.S.C. 272(b)(10) and (c)(4) and in accordance with Federal policy (e.g., OMB Circular A–119 “Federal Participation in the Development and Use of Voluntary Consensus Standards”).

The NCWM is an organization of weights and measures officials of the states, counties, cities, and territories of the United States, and representatives from the private sector and federal agencies. These meetings bring together government officials and representatives of business, industry, trade associations, and consumer organizations on subjects related to the field of weights and measures technology, administration, and enforcement. NIST hosted the first meeting of the NCWM in 1905. Since then, the conference has provided a model of cooperation between Federal, State, and local governments and the private sector. NIST participates to encourage cooperation between federal agencies and the states in the development of legal metrology requirements. NIST also promotes uniformity in state laws, regulations, and testing procedures used in the regulatory control of commercial weighing and measuring devices, packaged goods, and for other trade and commerce issues.

The NCWM has established multiple committees, task groups, and other working bodies to address legal metrology issues of interest to, *inter alia*, regulatory officials, industry representatives, and consumers. Comments will be taken by the various NCWM committees on agenda items during the open hearing portions of the conference identified in the meeting schedule. At this stage, the items are proposals. The open hearing sessions are accessible to all registered attendees of the conference, including both NCWM members and non-members. The conference also includes committee work sessions in which the committees may, *inter alia*, accept comments, withdraw or carry over agenda items that need additional maturation, and develop recommendations for the agenda items for consideration and

possible adoption during the voting session of the meeting.

This notice is intended to make interested parties aware of significant agenda items and alert them to the committees' intentions to share reports on the status of each at the 2024 NCWM Annual Meeting. This notice is also presented to invite the participation of manufacturers, experts, consumers, users, and others who may be interested in these efforts.

Comments will be taken on these and other recommendations to amend NIST Handbook 44, "Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices" (NIST Handbook 44 or NIST HB 44), NIST Handbook 130, "Uniform Laws and Regulations in the areas of Legal Metrology and Fuel Quality" (NIST Handbook 130 or NIST HB 130), and NIST Handbook 133, "Checking the Net Contents of Packaged Goods" (NIST Handbook 133 or NIST HB 133).

These NIST Handbooks are regularly adopted by reference or through the administrative procedures of all the states. At this stage these agenda items are only proposals to amend the handbooks.

NCWM S&T Committee

The NCWM Specifications and Tolerances Committee (S&T Committee) will consider proposed amendments to NIST HB 44, including those identified below. These items address weighing and measuring devices used in commercial applications, that is, devices used to buy from or sell to the public or used to determine the quantity of products or the cost of services based on a weight or measurement. For a detailed technical review of the NCWM S&T Committee agenda items, see the 2024 NIST OWM Analysis at 2024 NIST OWM Annual Analysis.

SCL—Scales

SCL-23.3. Verification Scale Division e: Multiple Sections.

The S&T Committee has assigned a Voting status to a proposal submitted by the NCWM Verification Scale Division e Task Group that is intended to update NIST Handbook 44, Section 2.20 Scales to clarify how error is determined in relation to the verification scale division (e) and the scale division (d), clarify which is the proper reference; the verification scale division (e) or the scale division (d) throughout this section, ensure proper selection of a scale in reference to the verification scale division (e) and the scale division (d), and clarify the relationship between

the verification scale division (e) and the scale division (d).

WIM—Weigh-In-Motion Systems

WIM-23.1. Add Section 2.26. Weigh-in-Motion Systems Used for Vehicle Direct Enforcement.

The S&T Committee will consider a proposal to add Section 2.26. Weigh-in-Motion Systems Used for Vehicle Direct Enforcement. This also includes (but is not limited to): (1) specifications that direct how a device must be designed. (S); (2) the addition of test procedures specific to devices designed to enforce road weight limit restrictions for vehicles in the test procedures (N) section addressing test speeds, dynamic test loads, and vehicle configurations; (3) the designation of tolerances (T) to be applied to WIM scales used for enforcement purposes; and (4) the addition of selection, installation, maintenance, and violation parameters in the user requirements (UR) for the enforcement of road weight limit restrictions for vehicles based on axle, axle group, and gross vehicle weights. The proposal has been through several revisions since the release of the 2023 NCWM Publication 15. During the 2024 NCWM Interim Meeting, the Committee updated the item based on revised language proposed by the submitter and input received during the meeting. The item was assigned a Voting status.

EVF—Electric Vehicle Fueling Systems

EVF-24.2—S.2.7. Indication of Delivery, N.3.2. Accuracy Testing., and T.2.1. EVSE Load Test Tolerances.

This item proposes to amend the exemption date applicable to DC EV charging equipment from 2028 to 2025 for those paragraphs that include the exemption. Exempting DC systems currently placed into service up through December 31, 2024, from displaying specific sales information and accuracy testing and tolerances. Whereas all other AC and DC EVSE in service must meet all HB 44 display and accuracy requirements and be held to minimum test procedures.

EVF-23.4—S.5.2. EVSE Identification and Marking Requirements, S.5.3. Abbreviations and Symbols, and N.3. Test of an EVSE System. This item proposes to expand EVSE test procedures and amend EVSE marking requirements which are used to identify that the system is in the proper state for testing.

EVF-23.6—S.5.2. EVSE Identification and Marking Requirements., and T.2. Accuracy Test Tolerances. This item proposes to create a new accuracy class for DC EV charging equipment where a $\pm 5\%$ performance tolerance would

apply until 2034. This would permit DC systems currently in use and placed into service up through December 31, 2023, a wider accuracy tolerance when marked with the designation "Accuracy Class 5" while other DC systems operate and meet the current $\pm 2\%$ tolerance.

OTH—Other Items

OTH-16.1—Non-Utility Electricity-Measuring Systems (NUEMS)—Tentative Code. This item proposes to create a new NIST HB 44 code section that would apply to electricity meters that are not under the authority of municipal and public utilities. If adopted the code would have a tentative designation which means it would have a trial or experimental status and is not intended to be enforced.

NCWM L&R Committee

The NCWM Laws and Regulations Committee (L&R Committee) will consider proposed amendments to NIST HB 133, including those identified below. A detailed technical review of the L&R Committee agenda items will be made available prior to the 2024 NCWM Annual Meeting in the 2024 NIST OWM Annual Analysis.

NET—NIST Handbook 133

NET-24.1. Section 3.11. Ice Cream Novelties. The L&R Committee will consider a proposal designated as "Voting" to modify NIST HB 133, Section 3.11. Ice Cream Novelties. This is a test procedure that will provide updated technical guidance on the preparation and maintenance of ice water at the required temperature to test ice cream novelties such as ice cream bars, ice cream sandwiches, or cones.

NET-24.2. Section 4.9. Procedure for Checking the Contents of Specific Agriculture Seed Packages Labeled by Count and Appendix D. AOSA Rules for Testing Seeds. The L&R Committee will consider a proposal designated as "Voting" to align NIST HB 133, Section 4.9. Procedure for Checking the Contents of Specific Agriculture Seed Packages Labeled by Count and Appendix D. AOSA Rules for Testing Seeds with recent changes to the Association of Official Seed Analyst (AOSA) Rules. This proposal would provide a standardized mechanical seed counter calibration procedure for all models of mechanical seed counters being used across the United States, to determine the number of seeds per pound and/or for the purpose of packaging seeds by count.

NET 22.1 Section 1.2.6. Deviations Caused by Moisture Loss or Gain and Section 2.3.8. Table 2-3 Moisture Allowances. The L&R Committee will

consider a proposal that is designated as “Voting” to Section 1.2.6. Deviations Caused by Moisture Loss or Gain and Section 2.3.8. Table 2–3 Moisture Allowances. This proposal would provide for a 3% moisture allowance for packages of Cannabis plant material containing more than 0.3% total delta-9 THC (Cannabis, Marijuana, or Marihuana¹) or containing 0.3% less total delta-9 THC (hemp). Deviations from the net quantity of contents caused by the loss or gain of moisture from the package are permitted when they are caused by ordinary and customary exposure to conditions that normally occur in good distribution practices and that unavoidably result in a change of weight or measure.

Alicia Chambers,
NIST Executive Secretariat.

[FR Doc. 2024–12191 Filed 6–3–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Earth and Space-Based Sensors for Environmental Measurements: Calibration, Standards, and Testbeds

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice of workshop; request for comments.

SUMMARY: The National Institute of Standards and Technology (NIST), an agency of the United States Department of Commerce, is planning a gaps analysis workshop to assess the present state-of-the-art of sensors used to measure and quantify the local, regional, and global state of the environment and how it is changing in time and in response to natural and anthropogenic forcings. In advance of the workshop, NIST is seeking public input on agenda topics and priorities. Such topics may include, but are not limited to, needs in the following areas of environmental measurement: measurement capabilities, sensors, modeling, documentary and artifact standards, calibration services, traceability, and testbeds. Additionally, NIST is interested in assessing whether there is a need for new measurement technologies, testbeds, calibration services, Standard Reference Materials

(SRMs), and documentary standards to advance the breadth, accuracy (short-term and long-term), sustainability (including cost factors), and comparability of environmental measurements [nationally, internationally, and over time aided by measurement traceability to the International System of Units (SI)].

DATES: NIST will accept written responses to this request for information until 10 p.m. (EST) on August 31, 2024. Submissions received after that date may not be considered. All submissions, including attachments and other supporting materials, may become part of the public record and may be subject to public disclosure. NIST reserves the right to publish relevant comments publicly, unedited and in their entirety. Personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Do not submit confidential business information, or otherwise sensitive or protected information. Comments that contain profanity, vulgarity, threats, or other inappropriate language or content will not be considered.

A public workshop will be held from Tuesday, September 10, 2024, to Thursday, September 12, 2024, from 9 a.m. to 5 p.m. eastern time, both in person at the National Cybersecurity Center of Excellence in Rockville, MD, USA and virtually by web conferencing. Interested parties will need to register for the workshop. A fee will be required for in-person attendance. Please email e-sensor@nist.gov prior to midnight (EST) August 16, 2024 if you are interested in attending in person or virtually. If you would like to present at the meeting, please indicate your interest and the subject of your presentation in the email.

ADDRESSES: Comments should be submitted to Ms. Amy Grafmuller, Administration Specialist, Mail Stop 8400, 100 Bureau Drive, Gaithersburg, MD or by electronic mail to e-sensor@nist.gov.

FOR FURTHER INFORMATION CONTACT: *Mail:* Dr. Julia Marrs, Special Programs Office, Mail Stop 2100, 100 Bureau Drive, Gaithersburg, Maryland 20899. Email: julia.marrs@nist.gov Phone number: 301 975–2379.

SUPPLEMENTARY INFORMATION: Multiple concurrent environmental challenges presently exist, driven by human activity. Environmental challenges include global warming, biodiversity loss, disease emergence and spread, topsoil loss, environmental contamination, altered biogeochemical cycling, and habitat range shifts. These

challenges have documented economic impacts reaching into the hundreds of billions of dollars annually and are highly relevant to business interests, due to the continued need for access to the natural resources and ecosystem services on which industrial profitability relies. Furthermore, many of these challenges present broader threats to society, including the potential for food shortages, pandemics, and extreme weather. NIST seeks to advance the science and artifact and documentary standards for the measurement of the physical, chemical, biological, and ecological parameters needed for understanding complex, natural systems undergoing short and long-term change. Such understanding will improve the forecasting of the rate and extent of change and aid the mitigation of such change if intervention is implemented.

Engagement of NIST, the environmental sensor industry, and the sensor user community is critical to ensure the adoption of effective standards to promote a competitive and resilient market and to enable optimal investment in tackling environmental challenges. The standards must include the development of best practices for measuring key parameters and methodologies for ensuring the accuracy of the measurements. Without effective standards, organizations wishing to invest in addressing environmental challenges will be unable to effectively direct resources. To address these needs, NIST is planning a gaps analysis workshop for the environmental measurement community, to learn more about current limitations in making measurements of the environment, including terrestrial and aquatic ecosystems, coastal zones, agriculture, and managed and urban areas. This workshop will entail a community dialogue on needs related to new and improved sensors, standardized measurement methods, measurement testbeds, and artifact and documentary standards for ecosystem measurement.

The workshop aims to facilitate engagement among sensor manufacturers, calibration laboratories, standards organizations, academic researchers, Federal agencies, nonprofits, and regional and state agencies. NIST is seeking public comments on current gaps in the field of environmental measurement and on priorities for the upcoming workshop agenda. Sensors of interest for workshop discussion may include point and area sensors (including imaging systems) deployed in aquatic (e.g., buoys, submersibles), subsurface, surface, air (e.g., conventional aircraft, drones, and

¹ In contrast to hemp, marijuana, which is defined as cannabis with a tetrahydrocannabinol (THC) concentration of more than 0.3 percent on a dry weight basis, remains a Schedule I substance under the Controlled Substances Act (CSA). 21 U.S.C. 812(d); 21 CFR 1308.11(d)(23).

balloons), and space (small CubeSat-style satellites to large environmental satellites) environments. In addition to these proposed topics, NIST is soliciting public input on gaps in measurement capabilities for other physical, chemical, biological, and ecological parameters relevant to environmental monitoring, management, and hazard mitigation applications. Focal areas of particular interest may include environmental measurement testbeds, including gaps in current measurement capabilities at available testbeds, and discrepancies between sensor performance in laboratory versus field settings. Additionally, we solicit community input on current gaps and future needs related to standards development for new and emerging sensor technologies used to monitor aspects of environmental change, including the particularly difficult task of measuring extremely small annual changes in the environment over decadal time periods, a significant challenge for sensors and data analysis protocols given the large diurnal and seasonal changes in temperature, humidity, and precipitation seen in many environments of interest.

The above-listed agenda topics are not intended to limit the areas that may be addressed by respondents so long as they address a topic that would be useful in NIST's planning relative to our future work on supporting the environmental measurement community. When addressing the topics above, respondents may describe the practices of their organization or organizations with which they are familiar. Providing such information is optional and will not affect NIST's full consideration of the comment.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2024-12165 Filed 6-3-24; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD962]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council)

Ad-hoc Sacramento River Fall Chinook (SRFC) Workgroup will hold a 2-day meeting in June 2024.

DATES: The online meetings will be held on Tuesday, June 25 and Wednesday, June 26, 2024, daily from 9 a.m. until 3 p.m., Pacific Time or when business for the day concludes.

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

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

FOR FURTHER INFORMATION CONTACT: Robin Ehlke, Staff Officer, Pacific Council; telephone: (503) 820-2410.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting is to address guidance received from the Pacific Council at their June 2024 meeting. The Workgroup may also discuss and continue to develop new or updated tools for SRFC management for Pacific Council consideration. Additional discussions may include, but are not limited to, future meetings, workload planning, and upcoming Council agenda items.

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

Special Accommodations

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

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

Dated: May 30, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024-12222 Filed 6-3-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD996]

Fisheries of the U.S. Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 91 Data Scoping Webinar for U.S. Caribbean Spiny Lobster.

SUMMARY: The SEDAR 91 assessment process of U.S. Caribbean spiny lobster will consist of a Data Workshop, and a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 91 Data scoping webinar will be held June 18, 2024, from 2 p.m. to 4 p.m., eastern time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; telephone: (843) 571-4366; email: Julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions,

and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and State and Federal agencies.

The items of discussion during the Data scoping webinar are as follows:

Participants will discuss what data may be available for use in the assessment.

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

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: May 30, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024-12224 Filed 6-3-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD963]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad-Hoc Klamath River Fall Chinook Workgroup will hold an online meeting.

DATES: The online meeting will be held Monday June 24, 2024, from 10:30 a.m. until 4 p.m., Pacific Time, or until business for the day concludes.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov) or contact him at (503) 820-2280, extension 412 for technical assistance.

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

FOR FURTHER INFORMATION CONTACT: Robin Ehlke, Staff Officer, Pacific Council; telephone: (503) 820-2410.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting is to discuss and further develop interim management measures, or a management framework, intended to address the response of Klamath River fall Chinook to the dynamic nature of the Klamath River environment and the available habitat immediately following dam removal, and post-dam removal until the natural environment is stabilized and the salmon population is more predictable. Additional discussions may include, but are not limited to, future meetings, workload planning, and upcoming Council agenda.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section

305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

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

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

Dated: May 30, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024-12223 Filed 6-3-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD943]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Ferndale Pier Maintenance Activities in Ferndale, Washington

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Petrogas Pacific, LLC (Petrogas) for authorization to take marine mammals incidental to Ferndale Pier Maintenance Activities in Ferndale, Washington. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than July 5, 2024.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be submitted via email to ITP.Pauline@noaa.gov. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least

practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On January 3, 2024 we received a request from Petrogas for an IHA to take marine mammals incidental to Ferndale Pier Maintenance Activities in Ferndale, Washington. Following NMFS’ review of the application, Petrogas submitted a revised version on March 26, 2024. The application was deemed adequate and complete on April 25, 2024. Petrogas has requested authorization of take by Level B harassment for harbor seal, California sea lion, Steller sea lion and harbor porpoise and, for harbor seal and harbor porpoise only, take by Level A harassment. Neither Petrogas nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

Petrogas is proposing to remove the existing timber Pier that has served as a loading facility since 1965 and replace it with a new structure that meets current industry best practices. The activity includes vibratory removal of existing timber piles and installation of steel piles by both vibratory and impact driving. In-water construction would occur for 17 days, which would occur intermittently between August 1, 2024 and October 31, 2024. Take of marine mammals is anticipated to occur due to vibratory pile removal as well as impact and vibratory pile installation.

Dates and Duration

This IHA would be valid for 1 year from August 1, 2024 through July 31, 2025. Due to in-water work timing restrictions to protect Endangered Species Act (ESA)-listed salmonids, all planned in-water construction is limited to a work window beginning August 1, 2024 and ending February 1, 2025. However, since the Strait of Georgia is a very large water body with a long fetch, calm in-water work conditions are typically only available from August to the end of October. Therefore, Petrogas expects that in-water construction work will occur from August 1, 2024 to October 31, 2024. Pile driving is anticipated to take up to 17 days to complete. Work may not occur on consecutive days due to weather and other project needs. Pile driving would be completed intermittently throughout daylight hours.

Specific Geographic Region

Petrogas maintains and operates a marine Pier on the southeastern shoreline of the Strait of Georgia in Ferndale, Washington as shown in figure 1. The Strait of Georgia encompasses the northern marine waters of the Salish Sea, with a long fetch that extends to the northwest between the Canadian mainland and Vancouver Island. The Pier is built on aquatic lands leased from the Washington Department of Natural Resources (WDNR). The shoreline and aquatic area surrounding the Pier is part of the Cherry Point Aquatic Reserve, a WDNR protected marine environment. The shore area is characterized by wave washed feeder bluffs where sediment transport creates both sandy and cobbled beaches and intertidal zones.

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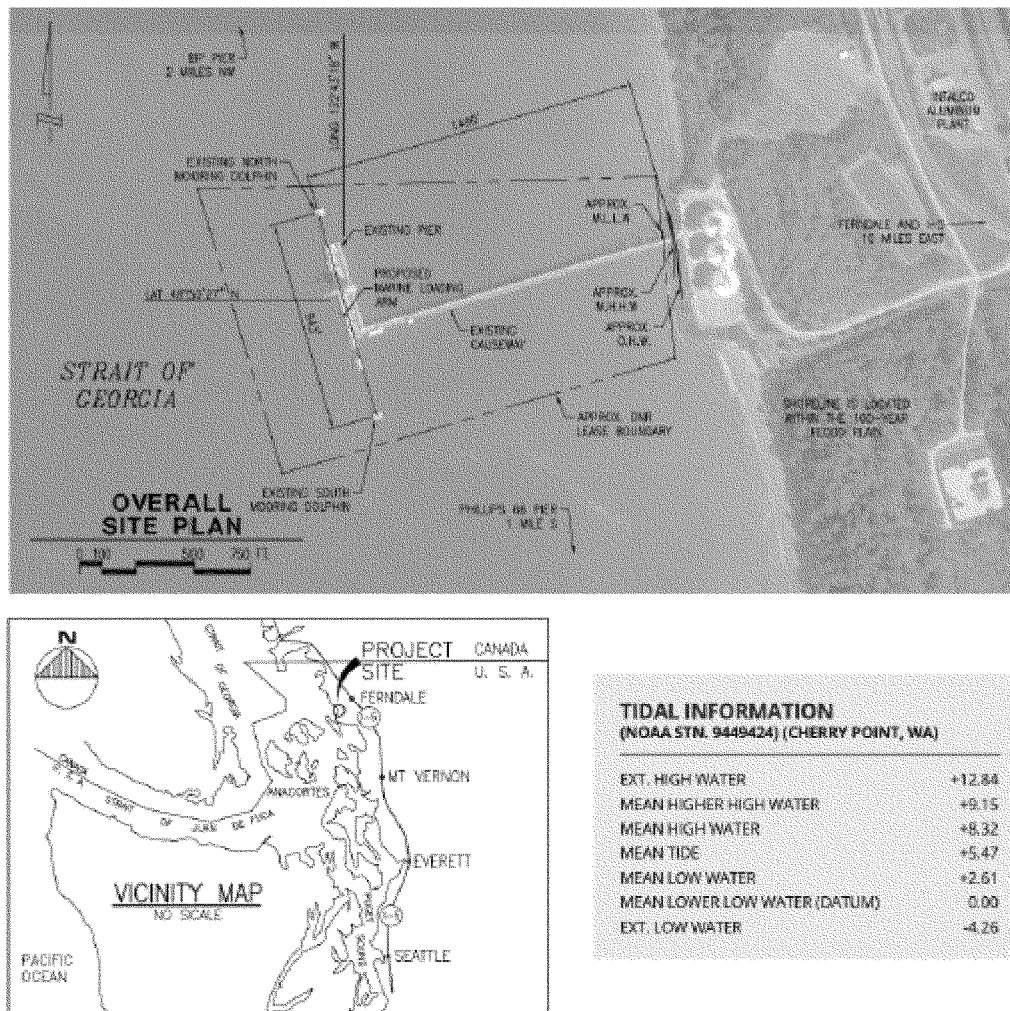


Figure 1. -- Project Location in Ferndale, WA

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Detailed Description of the Specified Activity

In-water construction activity is divided into three phases. The first phase consists of the installation of piles, dolphin platform and mooring system to replace the North Mooring Dolphin (NMD) deck and catwalk. NMD installation involves driving 7, 30-in, 150-foot (ft) steel piles via vibratory and impact driving, centered 25 ft (7.6 meters) to 50 ft (15.24 m) to the north of the old North Mooring Dolphin. Piles will be driven to approximately 100 ft (30.48 m) of penetration into the sea floor. Pile driving time is estimated to take 65 minutes per pile. The pile will be driven via vibratory driver for the majority of the distance (approximately 25 minutes), then will be driven and proofed via impact driver

(approximately 40 minutes) to ensure the pile meets the structural load design criteria. Two more additional 30-in steel piles will be driven with the same methods for the catwalk supports but to approximately 80 ft (24.38 m) of penetration into the sea floor. Pile driving will take 5–7 days and pile driving time will not exceed 3 hours in any 24-hour period.

The next project phase is the removal of the old mooring dolphins. Note that Petrogas is proposing to install the new NMD before removing the old one in order to minimize facility downtime. Forty-seven existing 16-in creosote-treated timber piles will be removed using a vibratory driver, taking roughly 2 minutes per pile. If any existing piles cannot be removed in this manner, they will be cut below the mudline with an underwater chainsaw or cutting torch.

The final phase would be the removal of the alumina unloading conveyor system dolphins. These are dolphins #7, #11 and #15. Dolphin #7 is composed of 8 treated timber piles, while dolphins #11 and #15 are composed of 7 treated timber piles each. A total of 22 piles would be removed. If vibratory removal is not feasible, they would also be cut below the mudline with an underwater chainsaw or cutting torch. Note that NMFS has determined that use of an underwater chainsaw or cutting torch as described in the second and third phase is not expected to result in take and, therefore, will not be not discussed further.

A summary of the proposed pile removal and installation methods for the pier project is presented below in table 1. Note that there will be no more than a total of 3 hours combined of impact and vibratory driving per day.

TABLE 1—SUMMARY OF IN-WATER PILE REMOVAL AND INSTALLATION

Location	Pile type and size	Activity	Removal/ install method	Number of piles	Total days of install	Piles per day	Hours pile driver in use	Impact strikes per pile
North Mooring Dolphin	30-inch steel pipe pile	Install	Vibratory hammer.	9	Up to 7	1.5	0.5	N/A.
North Mooring Dolphin	30-inch steel pipe pile	Install	Impact Pile Driver.	9	Up to 7	1.5	1.1	Up to 2000.
North Mooring Dolphin	16-inch timber piles	Removal	Vibratory hammer.	47	Up to 5	Up to 10	1	N/A.
Conveyor System Dol- phin Removal.	16-inch timber piles	Removal	Vibratory hammer.	22	Up to 5	Up to 10	1	N/A.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about

these species (*e.g.*, physical and behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

Table 2 lists all species or stocks for which exposure is expected for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here

as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' Alaska and Pacific SARs. All values presented in table 2 are the most recent available at the time of publication (including from the draft 2023 SARs) and are available online at: (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports>).

TABLE 2—SPECIES FOR WHICH TAKE COULD OCCUR IN THE PROJECT AREA

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Order Artiodactyla—Cetacea—Mysticeti (baleen whales)						
<i>Family Balaenopteridae (rorquals):</i>						
Humpback Whale	<i>Megaptera novaeangliae</i>	Central America/Southern Mexico—CA/OR/WA.	E, D, Y	1,494 (0.171, 1,284, 2021) ...	3.5	14.9
Humpback Whale	<i>Megaptera novaeangliae</i>	Mainland Mexico—CA/OR/WA	T, D, Y	3,477 (0.101, 3,185, 2018) ...	43	22
Humpback Whale	<i>Megaptera novaeangliae</i>	Hawaii	-, -, N	11,278 (0.56, 7,265, 2020) ...	127	27.09
Order Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Delphinidae:</i>						
Killer Whale	<i>Orcinus orca</i>	Eastern North Pacific Southern Resident.	E, D, Y	73 (N/A, 73, 2022)	0.13	0
Killer Whale	<i>Orcinus orca</i>	West Coast Transient	-, -, N	349 (N/A, 349, 2018)	3.5	0.4
<i>Family Phocoenidae (porpoises):</i>						
Harbor porpoise	<i>Phocoena phocoena</i>	Washington Inland Waters	-, -, N	11,233 (0.37, 8,308, 2015)	66	≥7.2
Order Carnivora—Pinnipedia						
<i>Family Otariidae (eared seals and sea lions):</i>						
California Sea Lion	<i>Zalophus californianus</i>	U.S.	-, -; N	257,606 (N/A, 233,515, 2014)	14,011	>321
Steller Sea Lion	<i>Eumetopias jubatus</i>	Eastern	-, -; N	36,308 (N/A, 36,308, 2022) ...	2,178	93.2
<i>Family Phocidae (earless seals):</i>						

TABLE 2—SPECIES FOR WHICH TAKE COULD OCCUR IN THE PROJECT AREA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Harbor Seal	<i>Phoca vitulina</i>	Washington Northern Inland Waters.	- , - , N	16,451 (0.07, 15,462, 2019) ..	928	40

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://www.marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>). ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

² NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

³ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, vessel strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

All species that could potentially occur in the proposed project area are included in table 2 of the IHA application. While the gray whale, minke whale, Dall's porpoise, and the Eastern North Pacific Northern Resident stock of killer whale have been reported in the area, the temporal and/or spatial occurrence of these species is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. The gray whale is uncommon in the area, but may pass through the Puget Sound during migration. Per the population analysis on gray whales from 1996–2015, from June 1 to November 30, there were only 6 days when sightings were recorded in the Northern Puget Sound. The Northern Puget Sound refers to a study range of the Puget Sound marine waters from Edmonds, WA to the Canadian border (Calambokidis, 2017). Additionally, gray whales would not be migrating when in-water work would most likely occur for this project (i.e., August through October). Therefore, since the occurrence of the gray whale is low at any time of year, and no gray whales are expected to occur during the expected work period, take of this species is not expected. While the minke whale may be observed in the San Juan Islands and southern Puget Sound, reports of minke whales in the Southeastern Strait of Georgia are rare. The Dall's porpoise has historically been present in the Puget Sound, but their numbers have declined significantly and are now also considered to be rare (Evenson 2016, Jefferson *et al.*, 2016, Jefferson 2024). Finally, while the Eastern North Pacific Northern Resident stock of killer whale may occur infrequently in Washington, its primary range is located in British Columbia, Canada, and Southeast Alaska up through Alaska (Dahlheim *et al.*, 1997, Ford *et al.*, 2000), and no take of this stock is expected to occur.

Humpback Whale

Humpback whales are found in coastal waters of Washington as they migrate from feeding grounds in Alaska to California to winter breeding grounds in Mexico. Humpbacks used to be considered only rare visitors to Puget Sound. In 1976 and 1978, two sightings were reported in Puget Sound and one sighting was reported in 1986 (Osborne *et al.*, 1988; Calambokidis and Steiger 1990; Calambokidis and Baird 1994). Humpback whale occurrence in Puget Sound has been steadily increasing since 2000, with some individuals remaining in the area through the winter (Calambokidis *et al.*, 2018).

On September 8, 2016, NMFS divided the once single species into 14 distinct population segments (DPS) under the ESA, removed the species-level listing as endangered, and, in its place, listed four DPSs as endangered and one DPS as threatened (81 FR 62259, September 8, 2016). The remaining nine DPSs were not listed. There are four DPSs in the North Pacific, including Western North Pacific and Central America, which are listed as endangered, Mexico, which is listed as threatened, and Hawaii, which is not listed.

The 2022 Pacific SARs described a revised stock structure for humpback whales which modifies the previous stocks designated under the MMPA to align more closely with the ESA-designated DPSs (Caretta *et al.*, 2023; Young *et al.*, 2023). Specifically, the three previous North Pacific humpback whale stocks (Central and Western North Pacific stocks and a CA/OR/WA stock) were replaced by five stocks, largely corresponding with the ESA-designated DPSs. These include Western North Pacific and Hawaii stocks and a Central America/Southern Mexico-CA/OR/WA stock (which corresponds with the Central America DPS). The remaining two stocks, corresponding with the Mexico DPS, are the Mainland Mexico-CA/OR/WA and

Mexico-North Pacific stocks (Caretta *et al.*, 2023; Young *et al.*, 2023). The former stock is expected to occur along the west coast from California to southern British Columbia, while the latter stock may occur across the Pacific, from northern British Columbia through the Gulf of Alaska and Aleutian Islands/Bering Sea region to Russia.

Within U.S. west coast waters, three current DPSs may occur: The Hawaii DPS (not listed), Mexico DPS (threatened), and Central America DPS (endangered). According to Wade *et al.* (2021), the probability that whales encountered in Washington waters are from a given DPS are as follows: Hawaii, 69 percent; Mexico (CA–OR–WA), 25 percent; Central America, 6 percent.

Humpback whales, while relatively few in number, are regularly seen in the Puget Sound. They are most frequently found in the South Puget Sound, the Strait of Juan De Fuca, the Haro Strait and among the Canadian Gulf Islands. They are found in transit in the southern parts of the Strait of Georgia on occasion, but are not a common occurrence per the sightings archive of the Orca Network.

Killer Whale

There are three distinct ecotypes, or forms, of killer whales recognized in the north Pacific: resident, transient, and offshore. The three ecotypes differ morphologically, ecologically, behaviorally, and genetically. Southern Resident killer whales (SRKW) exclusively prey upon fish, with a clear preference for salmon (Ford and Ellis 2006; Hanson *et al.*, 2010; Ford *et al.*, 2016), while transient killer whales exclusively prey upon marine mammals (Caretta *et al.*, 2019). Less is known about offshore killer whales, but they are believed to consume primarily fish, including several species of shark (Dahlheim *et al.*, 2008). The seasonal movements of transients are largely unpredictable, although there is a tendency to investigate harbor seal

haulouts off Vancouver Island more frequently during the pupping season in August and September (Baird 1994; Ford 2014). Transient killer whales have been observed in central Puget Sound in all months (Orca Network 2021).

SRKWs are typically found in the Salish Sea spring, summer and fall, and are found along the west coast of the United States and British Columbia in the winter (NOAA, 2022). The J pod tends to stay closer to the Puget Sound even during winter. The orca pods travel about the Puget Sound swiftly and, though a rare occurrence, the pods may pass through in the project area. ESA summer core area critical habitat for SRKW has been designated in Puget Sound, which includes all U.S. marine waters in Whatcom County, WA, where Ferndale Pier is located (50 CFR 226; August 2, 2021).

Harbor Porpoise

Harbor porpoise occur along the U.S. west coast from southern California to the Bering Sea (Carretta *et al.*, 2020). The Washington Inland Waters stock is found from Cape Flattery throughout Puget Sound and the Salish Sea region. In southern Puget Sound, harbor porpoise were common in the 1940s, but marine mammal surveys, stranding records since the early 1970s, and harbor porpoise surveys in the early 1990's indicated that harbor porpoise abundance had declined (Carretta *et al.*, 2020). Annual winter aerial surveys conducted by the Washington Department of Fish and Wildlife from 1995 to 2015 revealed an increasing trend in harbor porpoise in Washington inland waters, including the return of harbor porpoise to Puget Sound (Carretta *et al.*, 2020). Seasonal surveys conducted in spring, summer, and fall 2013–2015 in Puget Sound and Hood Canal documented substantial numbers of harbor porpoise in Puget Sound. Observed porpoise numbers were twice as high in spring as in fall or summer, indicating a seasonal shift in distribution.

Harbor porpoise reside in the Puget Sound year-round. Data from harbor porpoise sightings indicate that distribution is heterogeneous with some areas consistently suggesting higher densities of harbor porpoise. The British Columbia Cetacean Sightings Network (BCCSN) reports summer concentrations in areas that include the South-Central Strait of Georgia (Canadian side), Haro Strait, Boundary Pass and sites further north in British Columbia. Winter concentrations include the Port of San Juan, Haro Strait, Swanson Channel, and the central Strait of Georgia (in British Columbia) (Zier, 2015).

California Sea Lion

California sea lions occur from Vancouver Island, British Columbia, to the southern tip of Baja California. They breed on the offshore islands of southern and central California from May through July (Heath and Perrin, 2008). During the non-breeding season, adult and subadult males and juveniles migrate northward along the coast to central and northern California, Oregon, Washington, and Vancouver Island (Jefferson *et al.*, 1993). They return south the following spring (Heath and Perrin 2008, Lowry and Forney, 2005). Females and some juveniles tend to remain closer to rookeries (Antonelis *et al.*, 1990; Melin *et al.*, 2008).

California sea lions regularly occur on rocks, buoys and other structures and is the most frequently sighted otariid found in Washington waters. Some 3,000 to 5,000 animals are estimated to move into Pacific Northwest waters of Washington and British Columbia during the fall (September) and remain until the late spring (May) when most return to breeding rookeries in California and Mexico (Jeffries *et al.*, 2000). Peak counts of over 1,000 animals have been made in Puget Sound (Jeffries *et al.*, 2000).

There are no known haulouts in close proximity to the proposed project area but California sea lions may be in the vicinity foraging as they move through the wider area. While California sea lions can be found throughout the Puget Sound, estimates place the number of California sea lions in the springtime at an average of 450 in the Puget Sound proper (Jefferson, *et al.*, 2023). There are two documented haulouts in the southern Strait of Georgia, both along the western coast of the Strait of Georgia in British Columbia, Canada. The closest haulout is near Tumbo Island on the eastern edge of the Gulf Islands, over 15 miles from the project site (LeValley, E., 2021).

Steller Sea Lion

Steller sea lions in the project area are expected to be from the Eastern U.S. stock. The Eastern U.S. stock of Steller sea lions is found along the coasts of southeast Alaska to northern California where they occur at rookeries and numerous haulout locations along the coastline (Jeffries *et al.*, 2000; Scordino, 2006; NMFS, 2013).

The eastern DPS and MMPA stock is the only population of Steller's sea lions thought to occur in the project area. In Washington waters, numbers decline during the summer months, which correspond to the breeding season at Oregon and British Columbia rookeries

(approximately late May to early June) and peak during the fall and winter month.

The majority of Steller sea lion population in Washington is found on the west coast but there are consistently used haulouts and breeding sites throughout the Puget Sound. These sites are typically rocky, gravel or sand beaches, ledges and reefs. There are two documented haulouts in the southern Strait of Georgia. The first is near Tumbo Island on the eastern edge of the Gulf Islands in British Columbia, Canada, (west coast of the Strait of Georgia), approximately 15 miles from the project area. The second is on Sucia Island (LeValley, E. 2021), approximately 10 miles distant from the project area, at the southern end of the Strait of Georgia.

Harbor Seal

Harbor seals are the most common, widely distributed marine mammal found in Washington marine waters and are frequently observed in the nearshore marine environment. They occur year-round and breed in Washington. They are frequently found in saltwater bays, estuaries and inlets. Their preferred haulouts include intertidal and subtidal rocks, beaches, sandbars, rocky reefs, log booms and floats.

There are 3 delineated stocks in the Puget Sound. These stocks include the Hood Canal stock, the Northern Inland Waters stock and the Southern Puget Sound stock.

This project is only likely to affect the Northern Inland Waters Stock, which is the most wide-spread stock throughout the Puget Sound, from Cape Flattery, to the Strait of Georgia, to the Tacoma Narrows Bridge (NOAA, 2022). Haulouts may be just a few individuals but may range beyond 500 individuals. Harbor seals generally live and feed in a limited range but may travel up to 400 miles for seasonal prey. The Strait of Georgia is a very large body of water with no haulouts in the immediate vicinity of the project. The closest documented haulouts are two different low population (>100 individuals) locations approximately 5 miles from the project site, one to the north and one to the south (Jeffries *et al.*, 2000). To the southwest and west of the project location are 14 other haulouts dotted throughout a few of the small northern San Juan Islands (North of Orcas Island) within 10 miles of the project (Jeffries *et al.*, 2000).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to

anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing

groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.*, low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen

based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS
[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.*, 2006; Kastelein *et al.*, 2009; Reichmuth *et al.*, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take of Marine Mammals section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Description of Sound Sources

The marine soundscape is comprised of both ambient and anthropogenic sounds. Ambient sound is defined as the all-encompassing sound in a given place and is usually a composite of sound from many sources both near and far. The sound level of an area is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (e.g., waves, wind, precipitation, earthquakes, ice, atmospheric sound), biological (e.g., sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (e.g., vessels, dredging, aircraft, construction).

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise “ambient” or “background” sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10 to 20 dB from day to day

(Richardson *et al.*, 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

In-water construction activities associated with the project would include impact pile driving, vibratory pile driving, and vibratory pile removal. The sounds produced by these activities fall into one of two general sound types: impulsive and non-impulsive. Impulsive sounds (e.g., explosions, gunshots, sonic booms, impact pile driving) are typically transient, brief (less than 1 second), broadband, and consist of high peak sound pressure with rapid rise time and rapid decay (ANSI, 1986; NIOSH, 1998; ANSI, 2005; NMFS, 2018). Non-impulsive sounds (e.g., aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems) can be broadband, narrowband or tonal, brief or prolonged (continuous or intermittent), and typically do not have the high peak sound pressure with rapid rise/decay time that impulsive sounds do (ANSI, 1995; NIOSH, 1998; NMFS, 2018). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (e.g., Southall *et al.*, 2007).

Two types of pile hammers would be used on this project: impact and vibratory. Impact hammers operate by repeatedly dropping a heavy piston onto

a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak sound pressure levels (SPLs) may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.*, 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson, *et al.*, 2005).

The likely or possible impacts of activity proposed by Petrogas on marine mammals could involve both non-acoustic and acoustic stressors. Potential non-acoustic stressors include the physical presence of the equipment and personnel; however, any impacts to marine mammals are expected to primarily be acoustic in nature.

Auditory Effects

The introduction of anthropogenic noise into the aquatic environment from pile driving and removal is the primary means by which marine mammals may be harassed from the Petrogas specified activity. In general, animals exposed to natural or anthropogenic sound may experience physical and behavioral effects, ranging in magnitude from none to severe (Southall *et al.*, 2007, 2021). Exposure to pile driving noise has the potential to result in auditory threshold shifts (TS) and behavioral reactions (*e.g.*, avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior). Exposure to anthropogenic noise can also lead to non-observable physiological responses such as an increase in stress hormones. Additional noise in a marine mammal's habitat can mask acoustic cues used by marine mammals to carry out daily functions such as communication and predator and prey detection. The effects of pile driving noise on marine mammals are dependent on several factors, including, but not limited to, sound type (*e.g.*, impulsive vs. non-impulsive), the species, age and sex class (*e.g.*, adult male vs. mom with calf), duration of exposure, the distance between the pile and the animal, received levels, behavior at time of exposure, and previous history with exposure (Wartzok *et al.*, 2004; Southall *et al.*, 2007). Here we discuss physical auditory effects (TSs) followed by

behavioral effects and potential impacts on habitat.

NMFS defines a noise-induced TS as a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2018). The amount of threshold shift is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2018), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.*, impulsive or non-impulsive), likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.*, spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.*, how animal uses sound within the frequency band of the signal; *e.g.*, Kastelein *et al.*, 2014), and the overlap between the animal and the source (*e.g.*, spatial, temporal, and spectral).

Permanent Threshold Shift (PTS)—NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (Ward *et al.*, 1958, 1959; Ward, 1960; Kryter *et al.*, 1966; Miller, 1974; Ahroon *et al.*, 1996; Henderson *et al.*, 2008). PTS levels for marine mammals are estimates, as with the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak *et al.*, 2008), there are no empirical data measuring PTS in marine mammals largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS, 2018).

Temporary Threshold Shift (TTS)—A temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2018). Based on data from cetacean TTS measurements (Southall *et al.*, 2007), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.*, 2000; Finneran *et al.*, 2000, 2002). As described in

Finneran (2015), marine mammal studies have shown the amount of TTS increases with cumulative sound exposure level (SELcum) in an accelerating fashion: At low exposures with lower SELcum, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher SELcum, the growth curves become steeper and approach linear relationships with the noise SEL.

Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.*, 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaticaorientalis*)) and five species of pinnipeds exposed to a limited number of sound sources (*i.e.*, mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). TTS was not observed in trained spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to impulsive noise at levels matching previous predictions of TTS onset (Reichmuth *et al.*, 2016). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran, 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. No data are available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and

Jenkins (2012), Finneran (2015), and table 5 in NMFS (2018).

Installing piles requires a combination of impact pile driving and vibratory pile driving. For the project, these activities would not occur at the same time and there would likely be pauses in activities producing the sound during each day. Given these pauses and that many marine mammals are likely moving through the action area and not remaining for extended periods of time, the potential for TS declines.

Behavioral harassment—Exposure to noise from pile driving and removal also has the potential to behaviorally disturb marine mammals. Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005; Southall *et al.*, 2021).

Disturbance may result in changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located. Pinnipeds may increase their haul out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006). Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (e.g., species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (e.g., Richardson *et al.*, 1995; Wartzok *et al.*, 2003; Southall *et al.*, 2007, 2021; Weilgart, 2007; Archer *et al.*, 2010). Behavioral reactions can vary not only among individuals but also within exposures of an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.*, 2012, Southall *et al.*, 2021), and can vary depending on characteristics associated with the

sound source (e.g., whether it is moving or stationary, number of sources, distance from the source). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. For a review of studies involving marine mammal behavioral responses to sound, see Southall *et al.*, 2007; Gomez *et al.*, 2016; and Southall *et al.*, 2021 reviews.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (e.g., bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (e.g., Croll *et al.*, 2001; Nowacek *et al.*, 2004; Madsen *et al.*, 2006; Yazvenko *et al.*, 2007). A determination of whether foraging disruptions incur fitness consequences would require information on estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (e.g., those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.*, 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (e.g., snapping shrimp, wind, waves, precipitation) or anthropogenic (e.g., pile driving, shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (e.g., signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (e.g., sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions. Masking of natural sounds can result when human activities produce high

levels of background sound at frequencies important to marine mammals. Conversely, if the background level of underwater sound is high (e.g., on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be masked. Ferndale Pier receives 150 tanker ships per year plus additional tugboats. Approximately 3,000 ships travel through the Strait of Georgia to visit Vancouver. Therefore, background sound levels in the project area are likely already elevated.

Marine Mammal Habitat Effects

The proposed Petrogas construction activities could have localized, temporary impacts on marine mammal habitat by increasing in-water SPLs and slightly decreasing water quality. Construction activities are of short duration and would likely have temporary impacts on marine mammal habitat through increases in underwater sound. Increased noise levels may affect acoustic habitat (see masking discussion above) and adversely affect marine mammal prey in the vicinity of the project area (see discussion below). During pile driving, elevated levels of underwater noise would ensonify waters around the Pier where both fish and mammals may occur and could affect foraging success.

In-water pile driving and pile removal would also cause short-term effects on water quality due to increased turbidity. Local currents are anticipated to disburse suspended sediments produced by project activities at moderate to rapid rates depending on tidal stage. Petrogas would employ standard construction best management practices, thereby reducing any impacts. Considering the nature and duration of the effects, combined with the measures to reduce turbidity, the impact from increased turbidity levels is expected to be discountable.

Pile installation and removal may temporarily increase turbidity resulting from suspended sediments. Any increases would be temporary, localized, and minimal. Petrogas must comply with state water quality standards during these operations by limiting the extent of turbidity to the immediate project area. In general, turbidity associated with pile installation is localized to about a 25-foot (ft) radius around the pile (Everitt *et al.*, 1980). Cetaceans are not expected to be close enough to the project pile driving areas to experience effects of turbidity, and any pinnipeds would likely be transiting the area and could

avoid localized areas of turbidity. Therefore, the impact from increased turbidity levels is expected to be discountable to marine mammals. Furthermore, pile driving and removal at the project site would not obstruct movements or migration of marine mammals.

Effects on Prey

Construction activities would produce continuous (*i.e.*, vibratory pile driving) and impulsive (*i.e.*, impact driving) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.*, Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Sound pulses at received levels may cause noticeable changes in behavior (Pearson *et al.*, 1992; Skalski *et al.*, 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality.

Impacts on marine mammal prey (*i.e.*, fish or invertebrates) of the immediate area due to the acoustic disturbance are possible. The duration of fish or invertebrate avoidance or other disruption of behavioral patterns in this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Further, significantly large areas of fish and marine mammal foraging habitat are available in the nearby waters.

The duration of the construction activities is relatively short, with pile driving and removal activities expected to take only 17 days. There will be no more than a total of 3 hours combined impact and vibratory driving per day and pile driving activities would be restricted to daylight hours. The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance of the area. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe for the project.

Construction activities, in the form of increased turbidity, have the potential to adversely affect fish in the project area. Increased turbidity is expected to occur in the immediate vicinity (on the order of 10 ft (3 meters (m)) or less) of construction activities. However, suspended sediments and particulates

are expected to dissipate quickly within a single tidal cycle. Given the limited area affected and high tidal dilution rates any effects on fish are expected to be minor or negligible. In addition, best management practices would be in effect, which would limit the extent of turbidity to the immediate project area.

In summary, given the relatively short daily duration of sound associated with individual pile driving and events and the relatively small areas being affected, pile driving activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, we conclude that impacts of the specified activity are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts to marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization through the IHA, which will inform NMFS' consideration of "small numbers," the negligible impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of the acoustic stressors (*i.e.*, pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for high frequency species (harbor porpoise) and phocids (harbor seal). Auditory injury is unlikely to occur for other species due to PTS zone sizes. The proposed mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no serious injury or mortality is anticipated or

proposed to be authorized for this activity. Below we describe how the proposed take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.*, previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.*, frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.*, bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.*, Southall *et al.*, 2007, 2021; Ellison *et al.*, 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μ Pa)) for continuous

(e.g., vibratory pile driving, drilling) and above RMS SPL 160 dB (re 1 μ Pa) for non-explosive impulsive (e.g., seismic airguns) or intermittent (e.g., scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by TTS as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may

result in changes in behavior patterns that would not otherwise occur.

The Petrogas proposed activity includes the use of continuous (vibratory driving and removal) and impulsive (impact pile driving) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re 1 μ Pa are applicable.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of

exposure to noise from two different types of sources (impulsive or non-impulsive). The Petrogas proposed activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving and removal) sources.

These thresholds are provided in the table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	Cell 2: $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	Cell 3: $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	Cell 4: $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	Cell 5: $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	Cell 6: $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	Cell 8: $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	Cell 10: $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μ Pa, and cumulative sound exposure level (L_E) has a reference value of 1 μ Pa²s. In this table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and TL coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected via sound generated by the primary components of the project (i.e., impact pile driving, vibratory pile driving and removal). Additionally, vessel traffic and other commercial and industrial activities in the project area may contribute to elevated background noise levels which may mask sounds produced by the project.

TL is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth,

water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log_{10} (R_1/R_2),$$

where

TL = transmission loss in dB

B = transmission loss coefficient

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6-dB reduction in sound level for each doubling of distance from the source ($20 * \log[\text{range}]$). Cylindrical spreading

occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source ($10 * \log[\text{range}]$). A practical spreading value of 15 is often used under conditions, such as the project site, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss is assumed here.

The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. In order to calculate the distances to the Level A harassment and the Level B harassment sound thresholds for the methods and piles being used in this project, NMFS used acoustic monitoring data from other locations to develop proxy source levels for the various pile types, sizes and methods. The project includes vibratory and impact pile

installation of 30-in steel piles and vibratory removal of 16-in timber piles. Source levels for the various pile sizes

and driving methods are presented in table 5. Bubble curtains would be employed during all impact driving,

with an assumed 5 dB effective attenuation (Caltrans 2020).

TABLE 5—PROXY SOUND SOURCE LEVELS FOR PILE SIZES AND DRIVING METHODS

Equipment used	Noise level ¹			Distance from measurement (m)
	dB Peak	dB rms	dB SEL	
Impact pile driving 30-inch steel piles ²	210	190	177	10 m
Vibratory pile driving 30-inch steel piles ³	196	159	.....	10 m
Vibratory pile driver pulling 16-inch timber piles ³ .....	.....	162	.....	10 m

¹ SL values shown do not include –5 dB attenuation for bubble curtain usage. The –5 dB correction for attenuation was applied to determine harassment isopleths (Table 7).

² Caltrans 2015.

³ Caltrans 2020.

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions

included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as impact or vibratory pile

driving and removal, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur PTS. Inputs used for impact driving in the optional User Spreadsheet tool, and the resulting estimated isopleths, are reported below in table 6 and table 7 below.

TABLE 6—USER SPREADSHEET INPUTS FOR LEVEL A HARASSMENT ISOPLETHS

Inputs	30-in steel impact installation	30-in steel vibratory installation	16-in timber vibratory removal
Spreadsheet Tab Used	E.1) Impact Pile Driving (STATIONARY SOURCE: Impulsive, Intermittent)	A.1) Vibratory Pile Driving (STATIONARY: Non-impulsive, Continuous)	
Source Level (Single Strike/shot SEL)	177	.....	.....
Peak	210	.....	.....
RMS	190	159	162
Weighting Factor Adjustment (kHz)	2	2.5	2.5
Strikes per pile	2000	.....	.....
Piles Per day	1.5	1.5	20
Propagation (xLogR)	15	15	15
Duration .....	.....	20	2
Distance of source level measurement (meters) ⁺	10	10	10

TABLE 7—CALCULATED LEVEL A AND LEVEL B HARASSMENT ISOPLETHS (m) AND ENSONIFIED AREAS (km² in parentheses)

Pile size/type	Level A pinnipeds		Level A cetaceans			Level B
	Harbor seal	Sea lions	LF	MF	HF	
Impact Installation						
30-in steel	205.4 (0.139)	15 (0.001)	383.2 (0.463)	13.7 (0.001)	457.2 (0.665)	464.2 (0.679)
Vibratory Installation/Removal *						
16-in Timber Piles	3.7	0.3	6.1	0.5	9.0	6,309.6 (62.5)
30-in steel	1.9	0.1	3.2	0.3	4.7	3,981 (24.9)

^{*} The Level A harassment isopleths associated with vibratory installation/removal are all below the minimum shutdown zone and result in very small ensonified areas. Therefore they are not provided in this table but will be included in the following calculated take tables.

Marine Mammal Occurrence and Take Estimation

In this section we provide information about the occurrence of marine mammals, including density or other relevant information which will inform the take calculations. The primary source for density estimates is from the Navy Marine Species Density Database (NMSDD) Phase III for the Northwest

Training and Testing Study Area (Navy, 2019). Therefore, a lower value was used for harbor porpoise density. These density estimates are shown in table 8 and will be used to calculate take due to the lack of site-specific data that is available.

To quantitatively assess potential exposure of marine mammals to noise levels from pile driving over the NMFS

threshold guidance, the following equation was first used to provide an estimate of potential exposures within estimated harassment zones:

$$\text{Exposure estimate} = N \times \text{Level B harassment zone (km}^2\text{)} \times \text{maximum days of pile driving}$$

where

N = density estimate (animals per km²) used for each species.

TABLE 8—MARINE MAMMAL SPECIES DENSITIES USED FOR EXPOSURE CALCULATIONS

Species	Region characterized	Density (animals/km ²)
Humpback Whale	North Puget Sound/San Juan Islands (Fall and Winter)	0.0027
Killer Whale (Southern Resident)	North Puget Sound/San Juan Islands (Fall and Winter)	0.0078
Killer Whale (Transient)	North Puget Sound/San Juan Islands (Fall and Winter)	0.0031
Harbor Porpoise	North Puget Sound	2.16
Steller Sea Lion	North Puget Sound/San Juan Islands (Fall)	0.0027
California Sea Lion	North Puget Sound/San Juan Islands (Fall)	0.0179
Harbor Seal	North Puget Sound/San Juan Islands (Fall)	0.76

Source: Navy 2019.

Table 9 below shows the total calculated take by Level A and Level B harassment over the 17 in-water work

days proposed for the Petrogas activity resulting in total calculated take.

TABLE 9—CALCULATED TAKE BY LEVEL A AND LEVEL B HARASSMENT

Total days	7 days	7 days	10 days	Totals	Requested Level A take
	30-in steel impact driving	30-in steel vibratory driving	16-in timber vibratory removal		
	Level A	Level A	Level A	Totals	Total
Humpback Whale	0.009	0.000	0.000	0.009	0
Southern Resident Killer Whales	0.000	0.000	0.000	0.000	0
Transient Killer whales	0.000	0.000	0.000	0.000	0
Harbor Porpoise	10.1	0.005	0.007	10.063	10
Steller Sea Lion	0.000	0.000	0.000	0.000	0
Cali Sea Lion	0.000	0.000	0.000	0.000	0
Harbor Seal	0.737	0.002	0.002	0.741	1
Level B Calculated Take				Total level B calculated take	Requested level B take
	Level B	Level B	Level B	Totals	Total
Humpback Whale	0.013	0.471	1.689	2.172	0
Southern Resident Killer Whale	0.037	1.359	4.878	6.275	0
Transient Killer Whale	0.015	0.533	1.914	2.462	0
Harbor Porpoise	10.271	376.405	1,350.927	1,738	1,738
Steller Sea Lion	0.013	0.471	1.689	2.172	17
California Sea Lion	0.085	3.119	11.195	14.400	51
Harbor Seal	3.614	132.439	475.326	611.379	611

Humpback Whale

Humpback whales are an uncommon occurrence near the project area but they do have the potential to be in the area as they migrate to feeding grounds to the north and mating grounds far south. Based on best available density estimates Petrogas has calculated the potential take of two humpback whales

by Level B harassment. However, they will shut down whenever humpback whales approach the Level B harassment zone. Given the low density of humpback whales in the project area, the ability to detect the whales visually from a considerable distance, the capacity to track whales through the Orca Network, and the anticipated

efficacy of proposed mitigation and monitoring measures, Petrogas elected not to request take. NMFS concurs with this request and, therefore, is not proposing to authorize take of humpback whales.

Killer Whales

Both SRKW and transient killer whales could occur near the project

area. Take calculations indicate that up to six SRKWs and two transient whales could be taken by Level B harassment. Even though the project site is located in summer core area critical habitat, the southeastern corner of the Strait of Georgia is not a location where SRKW are commonly located. After reviewing the monthly reports of September through October from 2016–2023, the occurrence of killer whales from any stock was uncommon in the southeastern corner of the Strait of Georgia. Furthermore SRKW were far less prevalent when compared to transients (ORCA 2024). Given the expansive range of SRKW; the relatively small area of their habitat that may be affected by the proposed project; the ready availability of habitat of similar or higher value, and short-term nature of construction (17 days), NMFS concluded that take of SRKW would be unlikely. Additionally, Petrogas will shut down whenever a killer whale from any stock is observed approaching a harassment zone so take of transients is also not likely. Given the ability to visually detect killer whales from proposed PSO locations (including boats), the capacity to track SRKW through contact with the ORCA Network, and the expected efficacy of proposed mitigation and monitoring measures, Petrogas elected not to request take. NMFS concurs with this request and, therefore, is not proposing to authorize take of killer whales.

Harbor Porpoise

Harbor porpoises are commonly found in the Strait of Georgia as indicated by regular sightings from the

British Columbia Cetacean Sightings Network and the Orca Network (Zier, 2015). Use of NMSDD data yielded an estimated 10 takes by Level A harassment and 1,738 by Level B harassment. NMFS concurs. Note that Petrogas has proposed to extend the shutdown zone beyond the Level A harassment zone in order to minimize potential PTS but has requested limited take by Level A harassment in case some animals enter into the injury zone unseen by PSOs and remain for sufficient time to incur PTS.

Steller Sea Lion

Calculated take based upon the species density in the Strait of Georgia yielded two potential takes by Level B harassment during the 17 days of in-water pile driving work. While there are no known nearby haulouts, there are haulouts in the greater Strait of Georgia. Petrogas felt that the calculated value was too low since this species is known to travel significant distances in search for prey, possibly into the marine waters of the Cherry Point Aquatic Reserve.

NMFS reviewed other IHA monitoring reports from Puget Sound and found that the Seattle Pier 63 construction project (87 FR 31985, May 26, 2022) reported a maximum of one animal taken per day over 17 in-water work days between October 12 and November 30, 2022. Therefore, NMFS is proposing to authorize 17 (one/day) takes of Steller sea lion by Level B harassment. Petrogas was in agreement with this proposal.

California Sea Lion

Calculated take based upon the species density in the Strait of Georgia found 14 potential takes by Level B

harassment during the 17 days of pile driving work at the Petrogas pier. While there are no known nearby haulouts, there are haulouts in the greater Strait of Georgia, and because this species may travel significantly in search for prey, possibly into the marine waters of the Cherry Point Aquatic Reserve. Petrogas felt this estimate was also low. Results from the Seattle Pier 63 project showed a maximum of three California sea lions taken per day over 17 in-water work days between Oct 12 and Nov 30, 2022. Assuming the same maximum number of takes over proposed 17 days of in-water work, NMFS proposes to authorize 51 takes by Level B harassment. Petrogas concurred with this assessment.

Harbor Seal

Harbor seals are common in the Strait of Georgia. Use of NMSDD (Navy 2019) found that there would be a single take by Level A harassment. Note that Petrogas is proposing to extend the shutdown zone beyond the Level A harassment zone in order to minimize potential PTS to harbor seals, but they have also requested a single take by Level A harassment in case some animals enter into the injury zone unseen by PSOs and remain for sufficient duration to incur PTS. The density data utilized also resulted in 611 calculated takes by Level B harassment. Therefore, Petrogas is requesting a single take of harbor seal by Level A harassment and 611 takes by Level B harassment. NMFS concurs with these proposed take numbers.

Proposed takes by Level A and Level B harassment are shown in table 10.

TABLE 10—PROPOSED TAKE OF MARINE MAMMALS BY LEVEL A AND LEVEL B HARASSMENT BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK

Common name	Stock	Stock abundance	Level A	Level B	Total proposed take	Proposed take as percentage of stock
Harbor porpoise	Washington Inland Waters	11,233	10	1,738	1,748	15.56.4
Steller sea lion	Eastern U.S.	36,308	.....	17	17	0.05
California sea lion	U.S.	257,606	.....	51	51	0.02
Harbor seal	Washington Northern Inland	16,451	1	611	612	3.7

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on

the availability of the species or stock for taking for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or

stocks, and their habitat (50 CFR 216.104(a)(11)). In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors: (1) The manner in which, and the degree to which, the successful

implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations.

Pre-Start Clearance Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving/removal of 30 minutes or longer occurs, PSOs would observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone would be considered cleared when a marine mammal has not

been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start (discussed below) cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the monitoring zone has been observed for 30 minutes and marine mammals are not present within the zone, soft-start procedures can commence and work can continue. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones indicated in table 11 are clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals. If work ceases for more than 30 minutes, the pre-activity monitoring of both the monitoring zone and shutdown zone would commence.

Implementation of Shutdown Zones—For all pile driving/removal activities, Petrogas would implement shutdowns

within designated zones. The purpose of a shutdown zone is generally to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Implementation of shutdowns would be used to avoid or minimize takes by Level A harassment from impact pile driving for all four species for which take may occur. Shutdown zones would be based upon the Level A harassment isopleth for each pile size/type and driving method where applicable. This is anticipated to reduce Level A harassment exposures without resulting in a substantial risk to the project schedule that could occur if marine mammals repeatedly enter into larger shutdown zones.

A minimum shutdown zone of 10 m would be required for all in-water construction activities to avoid physical interaction with marine mammals. Proposed shutdown and monitoring zones for each activity type are shown in table 11.

TABLE 11—SHUTDOWN ZONES DURING PILE INSTALLATION AND REMOVAL (m)

Pile size/type	Shutdown zone			Level B harassment monitoring zone
	HF	Phocid	Otariid	
16-in timber Vibratory	10	10	10	6,310
30-in steel Vibratory	10	10	10	3,990
30-in steel Impact	460	210	20	465

All marine mammals would be monitored in the Level B harassment zones and throughout the area as far as visual monitoring can take place. If a marine mammal enters the Level B harassment zone, in-water activities would continue and PSOs would document the animal's presence within the estimated harassment zone.

If a species for which authorization has not been granted, or a species which has been granted but the authorized takes are met, is observed approaching or within the Level B harassment zone, pile driving activities will be shut down immediately. Activities will not resume until the animal has been confirmed to have left the area or 15 minutes has elapsed with no sighting of the animal.

Coordination With Local Marine Mammal Research Network—Prior to the start of pile driving for the day the PSOs would contact the Orca Network to find out the location of the nearest sightings of SRKW and humpback whale. Petrogas must delay or halt pile driving activities if a SRKW, unidentified killer whale (*i.e.* transient) or humpback whales are sighted within the vicinity of the project area and are

approaching the Level B harassment zones (table 11) during in-water activities. Finally, if a SRKW, unidentified killer whale, or humpback whale enters the Level B harassment zone undetected, in-water pile driving must be suspended immediately upon detection and must not resume until the animal exits the Level B harassment zone or 15 minutes have passed without re-detection of the animal.

Soft Start—The use of soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors would be required to provide an initial set of strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period. This procedure would be conducted a total of three times before impact pile driving begins. Soft start would be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start

is not required during vibratory pile driving and removal activities.

Bubble Curtain—A bubble curtain would be employed during impact installation or proofing of steel piles. A noise attenuation device would not be required during vibratory pile driving. If a bubble curtain or similar measure is used, it would distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column. Any other attenuation measure would be required to provide 100 percent coverage in the water column for the full depth of the pile. The lowest bubble ring would be in contact with the mudline for the full circumference of the ring. The weights attached to the bottom ring would ensure 100 percent mudline contact. No parts of the ring or other objects would prevent full mudline contact. Air flow to the bubblers must be balanced around the circumference of the pile.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected

species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

Visual Monitoring

Monitoring shall be conducted by NMFS-approved observers in

accordance with section 13 of the application. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start, and shall include instruction on species identification (sufficient to distinguish the species in the project area), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

Monitoring would be conducted 30 minutes before, during, and 30 minutes after pile driving/removal activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving/removal activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

A minimum of three PSOs would be on duty during all in-water pile driving activities. Two shore-based observers will be stationed at locations offering best line of sight views to monitor the entirety of the shutdown zones and provide the most complete coverage of the monitoring zones. The first observer may be on the alumina silos to the east, roughly 100 ft above the water to scan the wider area. The second observer may be on the alumina unloader at the north end of the Pier. This would place the observer roughly 50 ft above water, approximately 300 ft south of the pile driving activities.

Additionally, Petrogas proposes to deploy one boat-based PSO that will be positioned at a location or moving in a pattern that offers the most complete visual coverage of the monitoring zone. Note, however, PSO position(s) may vary based on construction activity and location of piles or equipment.

The U.S. Fish and Wildlife Service, (USFWS) under Endangered Species Act Section 7, is requiring Petrogas to utilize observers to monitor for the endangered marbled murrelet (*Brachyramphus marmoratus*). As long as an observer meets the NMFS PSO qualifications as

described below and has been approved by NMFS, they may also serve as a USFWS-certified observer for marbled murrelets. NMFS must be notified if any NMFS-approved PSO is serving in this dual-purpose role.

PSOs would scan the waters using binoculars and would use a handheld range-finder device to verify the distance to each sighting from the project site. All PSOs would be trained in marine mammal identification and behaviors and are required to have no other project-related tasks while conducting monitoring. In addition, monitoring would be conducted by qualified observers, who would be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator via a radio. Petrogas would adhere to the following observer qualifications:

(i) PSOs must be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods.

(ii) At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

(iii) Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

(iv) Where a team of three or more PSOs is required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

(v) PSOs must be approved by NMFS prior to beginning any activity subject to this IHA.

Additional standard observer qualifications include:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of

marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Reporting

A draft marine mammal monitoring report would be submitted to NMFS within 90 days after the completion of pile driving and removal activities. It would include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring.
- Construction activities occurring during each daily observation period, including the number and type of piles driven or removed and by what method (*i.e.*, impact driving) and the total equipment duration for cutting for each pile or total number of strikes for each pile (impact driving).
- PSO locations during marine mammal monitoring.
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.
- Upon observation of a marine mammal, the following information: Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; Time of sighting; Identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; Distance and bearing of each marine mammal observed relative to the pile being driven for each sighting (if pile driving was occurring at time of sighting); Estimated number of animals (min/max/best estimate); Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*); Animal's closest point of approach and estimated time spent within the harassment zone; and Description of any marine mammal behavioral observations

(*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching).

- Number of marine mammals detected within the harassment zones, by species.
- Detailed information about any implementation of any mitigation triggered (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft final report would constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

Reporting Injured or Dead Marine Mammals

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury, serious injury or mortality, Petrogas would immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Region regional stranding coordinator. The report would include the following information:

- Description of the incident;
- Environmental conditions (*e.g.*, Beaufort sea state, visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with Petrogas to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Petrogas would not be able to resume their activities until notified by NMFS.

In the event that Petrogas discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition as described in the next paragraph), Petrogas would immediately report the incident to the Office of Protected Resources

(*PR.ITP.MonitoringReports@noaa.gov*), NMFS and to the West Coast Region regional stranding coordinator as soon as feasible. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with Petrogas to determine whether modifications in the activities are appropriate.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the majority of our analysis applies to all the species listed in table 11, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat,

they are described independently in the analysis below.

Pile driving and removal activities associated with the project as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A harassment and Level B harassment from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in zones ensounded above the thresholds for Level A or Level B harassment identified above when these activities are underway.

Take by Level A and Level B harassment would be due to potential behavioral disturbance, TTS, and PTS. No serious injury or mortality is anticipated or proposed for authorization given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. Take by Level A harassment is only anticipated for harbor porpoise and harbor seal. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see Proposed Mitigation section).

Based on reports in the literature as well as monitoring from other similar activities, behavioral disturbance (*i.e.*, Level B harassment) would likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.*, Thorson and Reyff, 2006; HDR, Inc., 2012; Lerma, 2014). Most likely for pile driving, individuals would simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted in Washington, which have taken place with no observed severe responses of any individuals or known long-term adverse consequences. The impact of Level B harassment takes on the affected individuals would be minimized through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring. Vibratory driving associated with the proposed project may produce sound at distances of up to six kilometers from the project site, thus overlapping with some likely less-disturbed habitat (such as the Cherry Point Aquatic Reserve). The project site

itself is frequented by large tankers every few days but the majority of sound fields produced by the specified activities are relatively close to the Pier. Animals disturbed by project sound would be expected to avoid the area and use nearby higher-quality habitats.

In addition to the expected effects resulting from authorized Level B harassment, we anticipate that harbor porpoises and harbor seals may sustain some limited Level A harassment in the form of auditory injury of low severity. However, animals in these locations that experience PTS would likely only receive slight PTS, *i.e.*, minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by pile driving, *i.e.*, the low-frequency region below 2 kHz, not severe hearing impairment or impairment in the regions of greatest hearing sensitivity. Harbor porpoises are high-frequency cetaceans while the hearing ability of harbor seal below 2 kHz is also poor (NMFS, 2018).

If hearing impairment occurs, it is most likely that the affected animal would lose a few decibels in its hearing sensitivity, which in most cases is not likely to meaningfully affect its ability to forage and communicate with conspecifics. As described above, we expect that marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice through use of soft start.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish or invertebrates to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the intermittent driving schedule (17 in-water work days between August 1 and October 31, 2024); short duration of the activities (no more than 3 hours per day combined impact and vibratory driving); the relatively small area of the habitat that may be affected; and the availability of nearby habitat of similar or higher value, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

While there are haulouts for pinnipeds in the area, these locations are some distance from the actual project site. There are two documented

California sea lion haulouts in the southern Strait of Georgia, both on the western coast of the Strait in British Columbia. The closest haulout in near Tumbo Island on the eastern edge of the Gulf Island, over 15 miles from the project site. The closest documented Steller sea lion haulout location is over 10 miles from the project site, on Sucia Island (Jeffries *et al.*, 2000). The closest documented harbor seal haulouts are two different low population (>100 individuals) locations approximately 5 miles from the project site, one to the north and one to the south (Jeffries *et al.*, 2000). To the southwest and west of the project location are 14 other haulouts dotted throughout a few of the small northern San Juan Islands (North of Orcas Island) within 10 miles of the project (Jeffries *et al.*, 2000).

While repeated exposures of individuals to this pile driving activity could cause limited Level A harassment in harbor seals and harbor porpoises and Level B harassment in these two species in addition to sea lions, they are unlikely to considerably disrupt foraging behavior or result in significant decrease in fitness, reproduction, or survival for the affected individuals.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- Any Level A harassment exposures (*i.e.*, to harbor porpoise and harbor seals, only) are anticipated to result in slight PTS (*i.e.*, of a few decibels), within the lower frequencies associated with pile driving;
- The anticipated incidents of Level B harassment would consist of, at worst, temporary modifications in behavior that would not result in fitness impacts to individuals;
- The ensounded areas from the project is very small relative to the overall habitat ranges of all species and stocks;
- Repeated exposures of pinnipeds to this pile driving activity could cause slight Level A harassment in seals and harbor porpoise and Level B harassment in seals, harbor porpoise and sea lion species, but are unlikely to considerably disrupt foraging behavior or result in significant decrease in fitness, reproduction, or survival for the affected individuals. In all, there would be no adverse impacts to the stocks as a whole; and
- The proposed mitigation measures are expected to reduce the effects of the

specified activity to the level of least practicable adverse impact.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 10 demonstrates the number of instances in which individuals of a given species could be exposed to received noise levels that could cause take of marine mammals. Our analysis shows that less than 6 percent of all species could be taken by harassment which is below one third of the population for all.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Petrogas for conducting in-water pile driving activities at Ferndale Pier in Ferndale Washington from August 1, 2024 through July 31, 2025, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>.

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed construction activities. We also request comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

- The request for renewal must include the following:

- (1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

- (2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: May 29, 2024.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2024–12160 Filed 6–3–24; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER FINANCIAL PROTECTION BUREAU

[Docket No. CFPB–2024–0022]

Agency Information Collection Activities: Comment Request

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB) is requesting the Office of Management and Budget's (OMB's) approval for an existing information collection titled "State Official Notification Rule" approved under OMB Control Number 3170–0019.

DATES: Written comments are encouraged and must be received on or before August 5, 2024 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email:* PRA_Comments@cfpb.gov. Include Docket No. CFPB–2024–0022 in the subject line of the email.

- *Mail/Hand Delivery/Courier:* Comment Intake, Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Anthony May, PRA Officer, at (202) 435–7278, or email: CFPB_PRA@cfpb.gov. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov. Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: State Official Notification Rule.

OMB Control Number: 3170–0019.

Type of Review: Extension without change of an existing information collection.

Affected Public: State and local governments.

Estimated Number of Respondents: 3.

Estimated Total Annual Burden Hour: 2.

Abstract: Section 1042 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 5552 (Act), gave authority to certain State and U.S. territorial officials to enforce the Act and regulations prescribed thereunder. Section 1042 also requires that the CFPB issue a rule establishing how States are to provide notice to the Bureau before taking action to enforce the Act (or, in emergency situations, immediately after taking such an action). In accordance with the requirements of the Act, the notice should be provided at least 10 days before the filing of an action with certain exceptions and setting forth a

limited set of information which is to be provided with the notice.¹

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CFPB, including whether the information will have practical utility; (b) The accuracy of the CFPB's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's approval. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2024–12218 Filed 6–3–24; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2022–0020]

Electronic Filing of Certificate of Compliance Data: Announcement of Expansion of PGA Message Set Test and Request for Additional Participants

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The U.S. Consumer Product Safety Commission (CPSC), in consultation with U.S. Customs and Border Protection (CBP), announce their joint intent to expand the current Partner Government Agency (PGA) Message Set test (Beta Pilot) to include up to 2,000 additional participants. This expansion would allow importers of regulated consumer products to voluntarily participate in the test by electronically submitting (eFiling) data from a certificate of compliance for up to three additional years, or until an effective date of a final rule requiring eFiling. Beta Pilot test participants will eFile certificate data to the CBP-authorized Electronic Data Interchange (EDI) system known as the Automated Commercial Environment (ACE). CPSC

also seeks comment on the revised burden estimates for this expanded collection of information.

DATES:

Beta Pilot Test: Submit electronic requests to participate in the expanded Beta Pilot test at any time after publication of this notice. CPSC will allow participation until we reach 2,000 volunteers or until an eFiling requirement becomes permanent, whichever comes first. CPSC asks that each Beta Pilot test participant electronically file CPSC PGA Message Set certificate data during the expanded Beta Pilot test.

Paperwork Reduction Act: Submit comments on the proposed expanded collection of information by August 5, 2024 using the methods described below in the **ADDRESSES** section of this preamble.

ADDRESSES:

Beta Pilot Test: Submit requests to participate in the Beta Pilot test and any technical comments on CPSC's supplemental Customs and Trade Automated Interface Requirements (CATAIR) guideline (available on [CPSC.gov](https://www.cpsc.gov)¹ and [CBP.gov](https://www.cbp.gov)²) through email to: efilingpilot@cpsc.gov. Requests to participate in the Beta Pilot test should contain the subject heading: "Beta Pilot: Application to participate in Expanded PGA Message Set Test." Technical comments on CPSC's supplemental CATAIR guideline should contain the subject heading: "Beta Pilot CATAIR Technical Comments."

Paperwork Reduction Act: You may submit comments, identified by Docket No. CPSC–2022–0020, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by email, except through www.regulations.gov. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/Hand Delivery/Courier/Confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not

¹ <https://www.cpsc.gov/eFiling-Documents-Library>.

² <https://www.cbp.gov/trade/ace/catair>.

¹ 12 CFR 1082.1.

want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to <https://www.regulations.gov>. Do not submit through this website: Confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC–2022–0020, into the “Search” box, and follow the prompts. A copy of the “Supporting Statement” for this burden estimate is available at: <https://www.regulations.gov> under Docket No. CPSC–2022–0020, Supporting and Related Material.

FOR FURTHER INFORMATION CONTACT:

Questions regarding the Beta Pilot test, participation in the test, and the proposed expanded collection of information should be directed to Arthur Laciak, eFiling Program Specialist, Office of Import Surveillance, U.S. Consumer Product Safety Commission, (301) 504–7516, efilingpilot@cpsc.gov. Questions sent by email should contain the subject heading: “Beta Pilot: Question re Expanded PGA Message Set Test.” For technical questions regarding ACE or Automated Broker Interface (ABI) transmissions, or the PGA message set data transmission, please contact your assigned CBP client representative. Interested parties without an assigned client representative should submit an email to Tsutomu Morishita at: Tsutomu.Morishita@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 10, 2022, CPSC announced in the **Federal Register** (87 FR 35513) a joint Beta Pilot test with CBP to assess eFiling certificate data for regulated consumer products and substances under CPSC’s jurisdiction using CBP’s PGA Message Set in ACE (Beta Pilot Test Announcement). The notice sought up to 50 Beta Pilot participants and provided a 60-day comment period for CPSC’s Paperwork Reduction Act (PRA)

burden estimate for the Beta Pilot test. Pursuant to this notice, the Beta Pilot test is underway with 38 participants; CPSC received no comment on the burden estimates provided. On September 14, 2022, CPSC published a second notice in the **Federal Register** providing a 30-day public comment period on the burden estimates for the Beta Pilot test, as required by the PRA. 87 FR 56407. CPSC received no comments. Subsequently, the Office of Management and Budget (OMB) assigned control number 3041–0193 for the Beta Pilot test.

In 2023, CPSC and CBP began the Beta Pilot test, which is ongoing with 38 importer participants, along with their trade partners, such as brokers and laboratories. On December 8, 2023, CPSC published a supplemental notice of proposed rulemaking (SNPR) to revise 16 CFR part 1110 to, among other things, require eFiling of certificate data. 88 FR 85760. In this notice, CPSC and CBP announce their joint intent to expand the Beta Pilot test to include up to an additional 2,000 importer participants and to extend the Beta Pilot test for up to three years, or until an effective date of a final rule implementing an eFiling requirement. Accordingly, CPSC is seeking comment on a revised burden estimate for the collection of information related to the expanded Beta Pilot test, as required by the PRA.

CPSC’s previous Beta Pilot Test Announcement (87 FR 35513, 35517–18) discussed CBP and CPSC’s legal authority to conduct the Beta Pilot test. Additionally, the Beta Pilot Test Announcement and the recent SNPR to revise 16 CFR part 1110 explained CPSC’s authority to require electronic filing of certificate data at the time of entry, or entry summary, if both are filed together. 87 FR 35513, 35518; 88 FR 85760, 85760–62.

A. Expansion of the Beta Pilot Test³

The June 10, 2022, Beta Pilot Test Announcement explained CPSC’s authority to require eFiling, the Alpha Pilot,⁴ and the Beta Pilot test, including its purpose, structure, and burden. 87

³ On May 29, 2024, the Commission voted (5–0) to publish this notice.

⁴ The eFiling Alpha Pilot test was a six-month joint initiative between CPSC and CBP that assessed the infrastructure and processes necessary for electronic filing of data, and successfully demonstrated the ability of eight U.S. importers, their customs brokers, CBP, and CPSC to work together to gather and electronically file these data at import. CPSC staff provided a report on the pilot, which is available at: https://www.cpsc.gov/s3fs-public/eFiling_Alpha_Pilot_Evaluation_Report-May_24_2017.pdf?uK.UhjHbKD5yJQ.1w06tu drnvuuWlra, published April 2017.

FR 35513. The Beta Pilot Test Announcement also described the Commission’s direction for an eFiling Program, explaining that on December 18, 2020, the Commission approved staff’s recommended plan to implement a permanent eFiling program at CPSC.⁵ The Beta Pilot test and the December 8, 2023 SNPR (88 FR 85760) are in furtherance of CPSC’s eFiling Program. In 2024, CPSC staff expects to submit for Commission consideration a draft final rule to require eFiling of certificate data. In the interim, CPSC and CBP intend to expand the Beta Pilot test (expanded Beta Pilot test) to allow importers of regulated consumer products and substances to voluntarily participate in the eFiling program for up to three years, or until an effective date of a final rule implementing an eFiling requirement.

Participation in the expanded Beta Pilot test will allow importers to assess and refine capabilities for eFiling certificate data elements into ACE via a PGA Message Set. The expanded Beta Pilot test provides additional members of the import community more time to gradually prepare for and begin eFiling PGA Message Sets. Like the current Beta Pilot test, the expanded test will involve eFiling certificate data for regulated consumer products and substances under CPSC’s jurisdiction that are classified under approximately 300 Harmonized Tariff Schedule (HTS) codes.⁶ Current participants may participate in the expanded Beta Pilot test and should inform CPSC of their interest in continuing in the Beta Pilot.

The expanded Beta Pilot test will allow CPSC to further scale up the information technology (IT), procedural, and processing requirements of the Product Registry and the Risk Assessment Methodology system (RAM) before the anticipated full implementation. For example, CPSC

⁵ The 2020 staff briefing package to implement an eFiling program at CPSC is available at: <https://cpsc.gov/s3fs-public/CPSC-Plan-to-Create-an-eFiling-Program-for-Imported-Consumer-Products.pdf?BYXOLX2gJmF4NaAN1LCMmqiXRISuaRkr>. The Record of Commission Action is available at: <https://www.cpsc.gov/s3fs-public/RCA-CPSC-Plan-to-Create-an-eFiling-Program-for-Imported-Consumer-Products.pdf>.

⁶ The products classified under the approximately 300 HTS codes that participants should expect to be tested in the Beta Pilot, include, but are not limited to: All Terrain Vehicles (ATVs); durable infant or toddler products, such as baby carriages, cribs, and safety gates; children’s furniture, backpacks, and school supplies; bicycle helmets; bicycles and other electric-powered cycles; clothing (sleepwear, outerwear, infant articles, potentially flammable adult clothing articles); drywall; fireworks; children’s jewelry; lighters; liquid nicotine; mattresses; pacifiers and rattles; rugs; and toys.

will scale up IT systems to accept data for regulated consumer products from more importers; refine the required infrastructure for the real-time collection and use of data; and continue development of internal and external procedures to supply, use, and maintain certificate data. Expanding the Beta Pilot test will enable CPSC to continue developing RAM algorithms to triage import data received from CBP to detect more effectively noncompliant consumer products arriving at ports of entry.

To accommodate expansion of the Beta Pilot test, this notice seeks up to 2,000 additional participants and revises CPSC's PRA analysis to accommodate these additional participants by revising the estimated annual burden to participants.

B. Use of the Automated Commercial Environment

CPSC is conducting the expanded Beta Pilot test in coordination with CBP and using the ACE system through which CBP collects importation and entry data, thus streamlining business processes and ensuring cargo security and compliance with U.S. laws and regulations. CBP developed ACE as the "single window" for the trade community to comply with the International Trade Data System (ITDS) requirement established by the Security and Accountability for Every (SAFE) Port Act of 2006. Trade filers must submit data to ACE using an EDI system, such as the Automated Broker Interface (ABI). Commercial trade participants, or the licensed customs brokers acting on their behalf, can electronically file entry data in ACE using ABI. A PGA Message Set allows the trade to enter agency-specific data along with entry data, through ABI, and for PGAs, such as CPSC, to receive this additional trade-related data.

II. Beta Pilot Test: Certificate Data

The expanded Beta Pilot test will follow the same structure as the existing Beta Pilot test, with two different methods of filing certificate data using the PGA Message Set: (1) filing a minimum of seven data elements (Full PGA Message Set), or (2) filing only a reference to certificate data stored in a Product Registry maintained by CPSC (Reference PGA Message Set). Participants submit certificate data for regulated finished products, either as the Full PGA Message Set or the Reference PGA Message Set, in ACE at the time of entry filing or entry summary filing if both entry and entry summary are filed together. CBP then makes available to CPSC the PGA

Message Set data and its corresponding entry data, for CPSC's validation, risk assessment, and admissibility determinations at entry, thereby facilitating compliant trade as well as sharpening CPSC focus on noncompliant trade. CPSC uses eFiled certificate data to review consumer product entry requirements and allow for earlier risk-based admissibility decisions to be made by CPSC staff. Additionally, because it is electronic, the PGA Message Set will eliminate or substantially reduce the necessity for submission and subsequent handling of paper documents. Section II of the 2022 Beta Pilot Test Announcement details the expected PGA Message Set data from a certificate of compliance as well as the methods for filing such data. 87 FR 35513, 35516–17.

CPSC's supplemental CATAIR guideline on filing certificate data through the PGA Message Set describes the technical specifications for filing during the expanded Beta Pilot test, as well as the Product Registry and Reference PGA Message Set.⁷ Technical comments on CPSC's supplemental CATAIR guideline should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice.

III. Beta Pilot Test Participant Eligibility, Selection Criteria, and Responsibilities

This document announces CPSC's plan, in consultation with CBP, to expand the number of Beta Pilot test participants from 50 up to 2,000 importers, and to extend the Beta Pilot test period from six months to up to three years, or until an effective date of a final rule implementing an eFiling requirement. Accordingly, CPSC and CBP seek additional Beta Pilot test participants. U.S.-based importers with an assortment of CPSC-regulated products may participate in the Beta Pilot test. To be eligible to apply as a test participant, the applicant must:

- Import regulated consumer products within the Commission's jurisdiction;
- File consumption entries and entry summaries in ACE, or have a broker who files in ACE;
- Use a software program that has completed ACE certification testing for the PGA Message Set; and
- Work with CPSC and CBP to test electronic filing of data using ABI to file through the Message Set, or references to certificate data in the Product Registry.

⁷ For links to CPSC's CATAIR, *see supra*, fns 1 and 2.

CPSC anticipates that the benefits of participation in the Beta Pilot test may include, but will not necessarily be limited to:

- Opportunity to work directly with CBP and CPSC in the pre-implementation stage of the requirement to file certificate data; and
- Ability to trouble-shoot systems and procedures.

IV. Application Process and Test Duration

Any importer seeking to participate in the test should email their company name, contact information, importer of record number(s), filer code(s), and an explanation of how they satisfy the requirements for participation to the address listed at the beginning of this notice. CPSC will consider applications to participate for three years, until reaching the expanded Beta Pilot test capacity of 2,000 participants, or until the effective date of a final rule, whichever comes first. CPSC will notify expanded Beta Pilot test applicants of approval to participate by email and will work with importers to onboard into the Pilot on a first come, first served basis. Depending on the level of interest, CPSC may restrict on-boarding of new participants, at least in the beginning of the expanded Beta Pilot test, to accommodate all participants successfully and smoothly.

V. Paperwork Reduction Act

The Beta Pilot test contains information collection requirements that are subject to public comment and review by OMB under the PRA of 1995 (44 U.S.C. 3501–3521). CPSC previously received an OMB control number for the existing Beta Pilot test: 3041–0193. CPSC now seeks to expand the number of participants in this test up to 2,000 and extend the test duration for up to three additional years (2027), or until an effective date of a final rule implementing an eFiling requirement. In this document, pursuant to 44 U.S.C. 3507(a)(1)(D), we set forth:

- a title for the collection of information;
- a summary of the collection of information;
- a brief description of the need for the information and the proposed use of the information;
- a description of the likely respondents and proposed frequency of responses to the collection of information;
- an estimate of the burden that shall result from the collection of information; and
- notice that comments may be submitted to the OMB.

Title: Beta Pilot Test for eFiling Certificates of Compliance.

Description: During the Beta Pilot test of CBP's PGA Message Set abilities through ACE, up to 2,000 participating importers of regulated consumer products will electronically file the requested certificate data, comprised of seven data elements, at the time of entry filing, or entry summary filing, if both entry and entry summary are filed together. Participants will have two ways to file certificate data during the Beta Pilot test: (1) filing certificate data in a CPSC-maintained Product Registry, and filing a reference number in ACE to this data set, through ABI, each time the product is imported thereafter (Reference PGA Message Set), or (2) filing all certificate data elements directly through ABI each time the product is imported (Full PGA Message Set). CPSC will receive the information from CBP through a real-time transfer of import data, and the agency will risk score the information in CPSC's RAM system to assist in the interdiction of noncompliant consumer products.

As set forth in section V.B of the Beta Pilot Test Announcement (87 FR 35513, 35517–18), the requirement to create and maintain certificates, including the data elements, is set forth in section 14 of the Consumer Product Safety Act (CPSA). Section 14(a) of the CPSA requires manufacturers (including importers) and private labelers of certain regulated consumer products manufactured outside the United States to test and issue a certificate certifying such products as compliant with applicable laws and regulations before importation. 15 U.S.C. 2063(a). Section 14(g)(1) of the CPSA describes the data required on a certificate. Section 14(g)(3) requires a certificate to

accompany the applicable product or shipment of products covered by the certificate, and that certifiers must furnish the certificate to each distributor or retailer of the product. Upon request, certificates must also be furnished to CPSC and CBP. Section 14(g)(4) provides that “[i]n consultation with the Commissioner of Customs, the Commission may, by rule, provide for the electronic filing of certificates under this section up to 24 hours before arrival of an imported product.” 15 U.S.C. 2063(g)(4). The Commission issued an SNPR to require eFiling on December 8, 2023. 88 FR 85760.

Because certificates are required by statute, this analysis focuses on the burden for CPSC to accept, and importers to provide, certificate data elements electronically at the time of entry filing, and not to collect and maintain certificate data more generally. Importer requirements in the Beta Pilot test for providing certificate data electronically at the time of entry filing fall within the definition of “collection of information,” as defined in 44 U.S.C. 3502(3).

Description of Respondents: Up to 2,000 importer participants who import regulated consumer products within CPSC's jurisdiction.

Estimated Burden: We estimate the burden of this collection of information as follows:

CPSC used information provided by Alpha Pilot test participants to inform the estimated burden for the Beta Pilot test. Like the existing Beta Pilot test, the burden from participating in the expanded Beta Pilot test can be broken down into the burden of preparing for participation in the Pilot, the burden of maintaining the data elements separately, and as compared to the Alpha Pilot test, the additional burden

of including the dates of manufacturing and lab testing. Based on feedback from the Alpha Pilot test participants, for the current Beta Pilot test, we assumed that many more participants (90%) would opt to exclusively use the Product Registry and Reference PGA Message Set, while only 10% would opt to exclusively use the Full PGA Message Set. Table 3 of the 2022 Beta Pilot Test Announcement provides the total annual burden estimate for the current Beta Pilot, estimating 9,217 annual burden hours from all participants, with an estimated annual cost (combined for all participants) of \$404,764 (in 2021 dollars). 87 FR 35513, 35520. When adjusted for inflation, the total estimated annual cost to current Beta Pilot test participants in 2023 is \$ \$442,002.

CPSC estimates that the expanded Beta Pilot test will have similar burden per response and cost per response as the participants in the current Beta Pilot test, with the exception of burden from survey responses, which will not be required of the expanded Beta Pilot test participants.⁸ Accordingly, CPSC estimates that if an additional 2,000 importers participate, 1,800 participants will use the Product Registry and Reference PGA Message Set, while 200 participants will use the Full PGA Message Set.

Tables 1–3 contain burden estimates for the expanded Beta Pilot test, which are in addition to the burden estimates provided in the 2022 Beta Pilot Test Announcement for up to 50 participants. Table 1 shows an estimated 1,800 additional participants will use the Reference PGA Message Set and bear an annual burden of 265,000 hours, with an estimated total annual cost for all participants of \$13,593,303.⁹

TABLE 1—EXPANDED BETA PILOT TEST BURDEN ESTIMATES PRODUCT REGISTRY AND REFERENCE PGA MESSAGE SET

Type of respondent	Number of respondents	Number of responses per respondent	Number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average cost per response	Total annual respondent cost*
Product Registry Only	A	B	C (= A × B)	D	E (= C × D)	F	G (= C × F)
Pilot Participation	1,800	1	1,800	91	163,800	\$5,382.47	\$9,688,442
Gathering and Submitting Data Elements ...	1,800	1	1,800	27	47,800	1,033.25	1,859,851
Filing Entry-Line	1,800	10,000	18,000,000	0.003	54,000	0.1136	2,045,010
Total			18,003,600		265,600		13,593,303

* **Note:** Due to rounding the products and summations may be slightly off.

⁸ The Supporting Statement for this burden estimate, placed on *Regulations.gov* under CPSC Docket No. CPSC–2022–0020 contains the estimates for the existing Beta Pilot test and the expanded Beta Pilot test.

⁹ The previous estimate for burden cost came from wage data for survey and filing entry-line data comes from the U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” September 2021, Table 4, total compensation for all sales and office workers in goods-producing private

industries: <http://www.bls.gov/ncs/>. For the expanded Beta Pilot test, the costs per response applied to participants are updated to 2023 dollars using the BLS “Employment Cost Index” ([url: https://www.bls.gov/eci/tables.htm](https://www.bls.gov/eci/tables.htm)).

Table 2 shows an estimated 200 additional participants will use the Full

PGA Message Set and bear an annual burden of 17,600 hours, and an

estimated total annual cost for all participants of \$943,532.

TABLE 2—EXPANDED BETA PILOT TEST BURDEN ESTIMATES PRODUCT REGISTRY AND FULL PGA MESSAGE SET

Type of respondent	Number of respondents	Number of responses per respondent	Number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average cost per response	Total annual respondent cost*
Full PGA message set only	A	B	C (= A × B)	D	E (= C × D)	F	G (= C × F)
Pilot Participation	200	1	200	30	6,000	\$2,451.54	\$490,308
Gathering and Submitting Data Elements ...	200	1	200	13	2,600	561.94	112,388
Filing Entry-Line	200	1,500	300,000	0.030	9,000	1.1361	340,835
Total			300,400		17,600		943,532

*Note: Due to rounding the products and summations may be slightly off.

Table 3 provides the estimated total burden for expanding the Beta Pilot test

of 283,000 burden hours for the 2,000 new participants, and an estimated total

annual cost for all participants of \$14,536,835.

TABLE 3—EXPANDED BETA PILOT TEST BURDEN ESTIMATES PRODUCT REGISTRY AND FULL PGA MESSAGE SET

Type of respondent	Number of respondents	Number of responses per respondent	Number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average cost per response	Total annual respondent cost*
Total burden	A	B	C (= A × B)	D	E (= C × D)	F	G (= C × F)
Pilot Participation	2,000	1	2,000	85	169,800	\$5,089.38	\$10,178,750
Gathering and Submitting Data Elements ...	2,000	1	2,000	25	50,400	986.12	1,972,239
Filing Entry-Line	2,000	9,150	18,300,000	0.003	63,000	0.1304	2,385,845
Total			18,304,000		283,200		14,536,835

*Note: Due to rounding the products and summations may be slightly off.

In compliance with the PRA of 1995 (44 U.S.C. 3507(d)), CPSC will submit the additional expanded Beta Pilot test information collection revision to the OMB for review. Pursuant to 44 U.S.C. 3506(c)(2)(A), we request comment on this burden estimate and the analysis, including:

- whether the collection of information is necessary for the proper performance of the CPSC’s functions, including whether the information will have practical utility;
- the accuracy of the CPSC’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information to be collected; and
- ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology.

VI. Confidentiality

All data submitted and entered into ACE is subject to the Trade Secrets Act

(18 U.S.C. 1905) and is considered confidential, except to the extent as otherwise provided by law. As stated in previous notices, participation in this or any of the previous ACE tests is not confidential and upon a written Freedom of Information Act (FOIA) request, a name(s) of an approved participant(s) will be disclosed by CPSC or CBP in accordance with 5 U.S.C. 552.

Alberta E. Mills,
Secretary, Consumer Product Safety Commission.

[FR Doc. 2024–12194 Filed 6–3–24; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement for T–7A Recapitalization at Vance Air Force Base, Oklahoma

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of Intent.

SUMMARY: The Department of the Air Force (DAF) is issuing this Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) to assess the potential social, economic, and environmental impacts associated with T–7A Recapitalization at Vance Air Force Base (AFB), Oklahoma. The EIS will analyze the potential impacts from introduction of T–7A aircraft and flight operations at Vance AFB and associated airspace; changes to the number of personnel and dependents in the Vance AFB region; and construction and upgrade of operations, support, and maintenance facilities.

DATES: A public scoping period of 30 days will take place starting from the date of publication of this NOI in the **Federal Register**. Comments will be accepted at any time during the environmental impact analysis process; however, to ensure DAF has sufficient time to consider public scoping comments during preparation of the Draft EIS, please submit comments within the 30-day scoping period. The

Draft EIS is anticipated in early 2025. The Final EIS and a decision on which alternative to implement is expected later in 2025.

DAF invites the public, stakeholders, and other interested parties to attend a public scoping meeting. Two in-person public scoping meetings will be held from 4 to 7 p.m. on 25 and 26 June 2024. The location of both meetings will be at the Autry Technology Center (1201 W Willow Road, Enid, OK 73703) and information provided at the meetings will be available on the project website (<https://vance.t-7anepadocuments.com/>). Attendees of the public scoping meeting will have the opportunity to submit written comments. The scheduled date and time for the public scoping meeting will also be published in local media (*Enid News & Eagle*) a minimum of 15 days prior to the meeting.

ADDRESSES: The project website (<https://vance.t-7anepadocuments.com/>) provides additional information on the EIS and can be used to submit scoping comments. Scoping comments may also be submitted via email to chinling.chen@us.af.mil or via postal mail to Ms. Chinling Chen, AFCEC/CIE; Attn: Vance AFB T-7A Recapitalization EIS; Headquarters AETC Public Affairs; 100 H East Street, Suite 4; Randolph AFB, TX 78150. Please submit inquiries or requests for printed or digital copies of the scoping materials via the email or postal address above or contact the AETC Public Affairs office by phone at 210-652-4400. For printed material requests, the standard U.S. Postal Service shipping timeline will apply. Scoping materials are also available in print at the Enid Public Library at 120 W Maine Avenue, Enid, Oklahoma.

SUPPLEMENTARY INFORMATION: The purpose of the proposed action is to continue the T-7A recapitalization program to prepare pilots to operate modern fourth and fifth generation aircraft. The need for the proposed action is to provide infrastructure and training systems to support the newer T-7A aircraft, allow for enhanced and improved flight and simulator training, and ensure DAF pilot training requirements are met.

Recapitalization entails introduction of T-7A aircraft and flight operations at Vance AFB to replace all T-38C aircraft assigned to the installation; nighttime (between 10 p.m. and 7 a.m.) flight operations; temporary changes to the number of personnel and dependents in the Vance AFB region during the 2-year transition period; and construction and upgrade of support and maintenance facilities. DAF is considering three

alternatives to implement the Proposed Action and the No Action Alternative. For Alternative 1, Vance AFB would receive up to 68 T-7A aircraft and phase in T-7A operations at a level sustaining pilot training while simultaneously phasing out the T-38C. A temporary increase of approximately 100 personnel is projected. Several construction projects including (MILCON) projects, unspecified minor military construction (UMMC) projects, and facilities sustainment, restoration, and modernization would potentially occur at Vance AFB to provide modern facilities and infrastructure to support T-7A aircraft maintenance, training, and operational requirements.

For Alternative 2, Vance AFB would receive up to 68 T-7A aircraft and perform T-7A operations at a level that is approximately 25 percent greater than Alternative 1. Alternative 2 is intended to cover a scenario in which, for either broad strategic or tactical operational reasons, DAF requires a surge or increase in pilot training operations above current plan. The number of T-7A aircraft arriving at Vance AFB and timeline of increased aircraft operations, new and renovated facilities, and personnel changes would be the same as described for Alternative 1. For Alternative 2, beginning in 2032, T-7A aircraft would perform annual operations at Vance AFB and associated SUA at an operational tempo that is 25 percent greater than Alternative 1. T-7A nighttime operations would occur with up to 873 annual nighttime operations at Vance AFB.

For Alternative 3, Vance AFB would receive up to 99 T-7A aircraft and perform annual operations approximately 45% greater than Alternative 1 once the aircraft transition is complete. Alternative 3 is intended to provide DAF with operational flexibility, and inclusion of this alternative in this EIS provides analysis to evaluate future capacity needs.

For the No Action Alternative, DAF would not implement T-7A recapitalization at Vance AFB. If the No Action Alternative were implemented, the T-7A aircraft disposition would be determined separately. Vance AFB's existing fleet of T-38C aircraft would continue to be used in their current capacity even though they will reach the end of their service lives within the next decade.

DAF anticipates potential for increased air emissions, particularly nitrogen oxides, and increased noise from the Proposed Action. Increased noise could have a disproportionate impact on environmental justice populations and impact off-installation

land use compatibility. The EIS will model air emissions, noise levels, and the number of disturbance events, that would result from implementation of the proposed action and alternatives and compare them to current conditions. DAF will also consult with appropriate resource agencies and Native American tribes to determine the potential for significant impacts. Consultation will be incorporated into the preparation of the EIS and will include, but not be limited to, consultation under Section 7 of the Endangered Species Act and consultation under Section 106 of the National Historic Preservation Act.

Scoping and Agency Coordination: To identify important environmental issues deserving of study and to deemphasize unimportant issues, narrowing the scope of the environmental impact statement process, DAF is soliciting comments from interested Federal, State, Tribal, and local, officials and agencies, as well as likely affected or interested members of the public. Comments are requested on alternatives and effects, as well as on relevant information, studies, or analyses with respect to the proposed action.

Tommy W. Lee,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2024-12131 Filed 6-3-24; 8:45 am]

BILLING CODE 3911-44-P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for F-35A Lightning II Formal Training Unit Beddown at Kingsley Field Air National Guard Base, Klamath Falls, Oregon

AGENCY: National Guard Bureau, Department of the Air Force, Department of Defense.

ACTION: Notice of Intent.

SUMMARY: The Department of the Air Force (DAF) is issuing this Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) to assess the potential social, economic, and environmental impacts associated with beddown of F-35A aircraft that would replace the legacy F-15C/D aircraft at Kingsley Field Air National Guard Base in Klamath Falls, Oregon. The DAF and NGB are joint lead agencies preparing the EIS and the Federal Aviation Administration is participating as a cooperating agency.

DATES: A public scoping period of 30 days will take place starting from the date of this NOI publication in the **Federal Register**. Identification of potential alternatives, information, and analyses relevant to the Proposed Action are requested and will be accepted at any time during the EIS process. To ensure sufficient time to consider public input in the preparation of the Draft EIS, scoping comments should be submitted in writing to the website, or the address listed below within the 30-day scoping period. An in-person scoping meeting is scheduled at Klamath Falls, OR on June 26, 2024 at the Crater Lake-Klamath Regional Airport. The Draft EIS is anticipated in Spring 2025 and the Final EIS is anticipated in Spring 2026. The Record of Decision would be approved and signed no earlier than 30 days after the Final EIS is published.

ADDRESSES: The project website www.KingsleyFieldF35EIS.com provides information on the EIS and the scoping process and can be used to submit scoping comments on-line. Scoping comments may also be submitted by email to NGB.A4.A4A.NEPA.COMMENTS.org@us.af.mil, including "F-35A Beddown EIS" in the subject line, or by mail to Mr. Devin Scherer, National Guard Bureau, NGB/A4FR 3501 Fetchet Avenue, Joint Base Andrews, MD 20762; (240) 612-8244. EIS inquiries and requests for digital or print copies of scoping materials are available upon request to Mr. Scherer at the email or mailing address provided. For printed material requests, the standard U.S. Postal Service shipping timeline will apply. Members of the public who want to receive future mailings informing them about the availability of the Draft and Final EIS, or to receive periodic fact sheets, are encouraged to submit a comment that includes their name and email or postal mailing address.

SUPPLEMENTARY INFORMATION: The purpose of the Proposed Action is to replace aging F-15C/D aircraft currently utilized by the 173d Fighter Wing (173 FW) with the state-of-the-art fighter aircraft to better address future mission requirements, offer expanded capability, and provide life-cycle cost savings in comparison to continued operation of existing F-15C/D aircraft. The Proposed Action is needed because the F-15C/D aircraft are reaching the end of their service life. The EIS will assess the potential environmental consequences of beddown, operation, and associated infrastructure construction of one formal training unit squadron of F-35A Lightning II (F-35A) aircraft at Kingsley

Field Air National Guard Base (ANGB) at the Crater Lake-Klamath Regional Airport in Klamath Falls, Oregon. The squadron would consist of 24 F-35A Primary Aerospace Vehicles Authorized and two Backup Aerospace Vehicles Authorized and would replace the existing 26 F-15C/D aircraft currently operating at Kingsley Field ANGB. The EIS will also assess a No Action Alternative.

Resource areas being analyzed for include noise, biological resources, cultural resources, socioeconomic, soils and geology, water resources, infrastructure and transportation, land use, hazardous materials and wastes, health and safety, air quality, and environmental justice and other sensitive receptors. Potential significant impacts include those related to aircraft noise, air quality, and land use. Should any permits or other authorizations be required, the NGB and DAF will identify and obtain each. The EIS will be prepared in accordance with the National Environmental Policy Act (NEPA) of 1969; the Council on Environmental Quality regulations implementing NEPA; 40 Code of Federal Regulations (CFR) parts 1500-1508 as well as agency implementing regulations.

Scoping and Agency Coordination: Consultation will include, but not necessarily be limited to, Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, and will include consultations with federally recognized Native American Tribes. The scoping process will be used to involve the public early in the planning and development of the EIS to assist in identifying issues and information to be addressed in the analysis. To effectively define the full range of issues to be evaluated, NGB and DAF will determine the scope of the analysis by requesting comments, including potential alternatives, information, and analyses from interested local, State, and Federal elected officials and agencies, Tribes, members of the public, and others. Comments will be accepted throughout the process, but in order to have comments incorporated into the Draft EIS, comments should be received within 30 days of the publication of this notice in the **Federal Register**. The scheduled dates, times, locations, and addresses for the scoping meetings are concurrently being published in local media and on the website. Public scoping will be accomplished by an in-person meeting during the scoping period and the project website will provide posters, a presentation, informational fact sheets, downloadable

comment forms to fill out and return by mail, and the capability for the public to submit scoping comments on-line. Comments received at the scoping meeting, via email, on the website, or by U.S. mail will be considered equally.

Tommy W. Lee,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2024-12132 Filed 6-3-24; 8:45 am]

BILLING CODE 3911-44-P

DEPARTMENT OF EDUCATION

Applications for New Awards; Basic Needs for Postsecondary Students Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications (NIA) for new awards for fiscal year (FY) 2024 for the Basic Needs for Postsecondary Students Program, Assistance Listing Number 84.116N. This notice relates to the approved information collection under OMB control number 1894-0006.

DATES:

Applications Available: June 4, 2024.

Deadline for Transmittal of

Applications: August 5, 2024.

Deadline for Intergovernmental

Review: October 2, 2024.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at www.federalregister.gov/d/2022-26554.

FOR FURTHER INFORMATION CONTACT:

Njeri Clark, U.S. Department of Education, 400 Maryland Avenue SW, 5th floor, Washington, DC 20202-4260. Telephone: (202) 453-6224. Email: Njeri.Clark@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Basic Needs for Postsecondary Students Program provides grants to eligible institutions of higher education (IHEs), or a consortia or system of such institutions, to advance systemic and sustainable

solutions to student basic needs insecurity through support programs that address the basic needs of students and to report on practices that improve outcomes for students.

Background: Access to essential basic needs can have a significant impact on postsecondary success but numerous studies have found that too often, college students experience basic needs insecurity. In the Hope Center's 2020 survey of more than 195,000 college students conducted during the COVID-19 pandemic, students of color were more likely to experience basic needs insecurity than their White peers. For students across two- and four-year institutions, 70 percent of Black students, 64 percent of Hispanic students, 66 percent of Pacific Islander/Native Hawaiian students, and 70 percent of American Indian/Alaska Native students experienced basic needs insecurity, compared with 54 percent of White students. The average rate of basic needs insecurity at community colleges was 60 percent, compared to the average rate at four-year colleges of 56 percent. Students at Historically Black Colleges and Universities (HBCUs) were 14 percentage points more likely to experience basic needs insecurity than students at non-HBCUs.¹

Evidence suggests that access to basic needs can impact student retention. For example, a study of Southern New Hampshire University students who received Federal emergency aid grants during the pandemic reported that students most frequently used the grant funds for housing, food, and transportation, and found that those students were as much as 15.5 percent more likely to stay enrolled the following semester.² Conversely, research has demonstrated a strong, statistically significant negative relationship between students who face housing insecurity and homelessness and college completion rates, persistence, and credit attainment.³ Additionally, one study found that among food-insecure college students, only 43.8 percent completed their

college degree, compared with 68.1 percent of food-secure college students. Among college students who completed a degree, those who experienced food insecurity were more likely to obtain an associate degree and were less likely to receive a bachelor's or graduate/professional degree than their food-secure counterparts.⁴ According to the Department of Education, in the 2019–20 school year, 34.5 percent of students were food-insecure—46.7 percent of Black students, 39.3 percent of Hispanic students, 45.6 percent of Pacific Islander/Native Hawaiian students, and 39.3 percent of American Indian/Alaska Native students, compared to 28.8 percent of White students. During that same period, more than half of students (52.1 percent) at HBCUs and more than a third of students at Hispanic-Serving Institutions (HSIs) (37.3 percent) were food-insecure.⁵

Other types of basic needs insecurity also are barriers to higher education success. For example, lack of access to transportation has been found to be a barrier to higher education entry and completion due to factors including cost and affordability, poor reliability, and housing and work proximity.⁶ In addition, with four million (22 percent) U.S. undergraduate students raising children while attending a postsecondary education program,⁷ child care is a basic need for many college students. A lower percentage of student parents earned an undergraduate degree compared to students without children, and more than half (52 percent) of undergraduate student parents left school without a degree, within 6 years, compared to 32 percent of students without children, according to a 2019 U.S. Government Accountability Office (GAO) report.⁸

Access to mental health care services is also critical for college students. A 2023 survey found that more than half

(56 percent) of students experienced chronic stress in college, and that 75 percent of students reported that stress is negatively impacting their ability to learn, focus, and do well academically. Thirty-five percent of college students said that the availability of counseling appointments at their institution needed improvement.⁹

Despite the role that public benefits can play to support students, in a 2023 survey of nearly 300 financial aid administrators nationwide, 43 percent said that their institution does not do direct outreach to students about Federal benefit programs and have no plans of doing so.¹⁰ According to a 2018 GAO report, only 31 percent of college students who met Supplemental Nutrition Assistance Program (SNAP) income requirements reported receiving benefits.¹¹

To this end, this competition is designed to promote student success by supporting interventions and programs that holistically address the basic needs of students and reporting on those practices that improve student outcomes. The competition includes two absolute priorities, two competitive preference priorities, and two invitational priorities. The absolute priorities are designed to take a systemic evidence-based approach to improving outcomes for underserved students, and to benefit the institutions serving the highest number of students with basic needs insecurities, including community colleges, HBCUs, Tribal Colleges and Universities (TCUs), and Minority-serving institutions (MSIs). The competitive preference priorities are focused on supporting projects that meet the needs of the whole student and provide comprehensive student support services, as well as establishing a system of high-quality data collection and analysis to build evidence that furthers the research, development, continuous improvement, and scaling of basic needs programs and services. The two invitational priorities are focused on leveraging public benefit programs and developing campus-wide strategies to address student mental health needs.

Priorities: This notice contains two absolute priorities, two competitive preference priorities, and two

¹ Hope Center for College, Community and Justice. (2021). "The Hope Center Survey 2021: Basic Needs Insecurity During the Ongoing Pandemic." <https://hope.temple.edu/sites/hope/files/media/document/HopeSurveyReport2021.pdf>.

² The Center for Higher Education Policy and Practice (2023). "Does Basic Needs Funding Improve Persistence Among College Students? Finding on How HEERF Dollars Impacted Student Persistence at SNHU." https://www.chepp.org/wp-content/uploads/2023/10/Basic-Needs-II_10_02_2023.pdf.

³ Bipartisan Policy Center. (2023). "Housing Insecurity and Homelessness Among College Students." <https://bipartisanpolicy.org/blog/housing-insecurity-and-homelessness-among-college-students/>.

⁴ Wolfson, J.A., Insolera, N., Cohen, A., Leung, C.W. (2022) "The effect of food insecurity during college on graduation and type of degree attained: evidence from a nationally representative longitudinal survey." *Public Health Nutrition*. <https://pubmed.ncbi.nlm.nih.gov/34321134/>.

⁵ U.S. Department of Education, National Center for Education Statistics, National Postsecondary Student Aid Study: 2020 Undergraduate Students (NPSAS:UG).

⁶ Schuette, A. (2023) "Transportation as a Barrier to Higher Education: Evidence from the 2022 Student Financial Wellness Survey." Trellis Company. <https://files.eric.ed.gov/fulltext/ED638075.pdf>.

⁷ Institute for Women's Policy Research. (2021). "Evaluating the Role of Campus Child Care in Student Parent Success." https://iwpr.org/wp-content/uploads/2021/10/Evaluating-the-Role-of-Campus-Child-Care_FINAL.pdf.

⁸ GAO 19–522, "More Information Could Help Student Parents Access Additional Federal Student Aid," August 2019.

⁹ Student Voice Survey (2023), Insider Higher Ed and College Pulse, <https://reports.collegepulse.com/health-and-wellness>.

¹⁰ Higher Learning Advocates. (2023). "The Numbers Speak for Themselves." <https://higherlearningadvocates.org/wp-content/uploads/The-Numbers-Speak-for-Themselves-HLA-and-NASFAA-Survey-Brief-2024.pdf>.

¹¹ GAO 19–95, "Food Insecurity: Better Information Could Help Eligible College Students Access Federal Food Assistance Benefits." December 21, 2018.

invitational priorities. The absolute and competitive preference priorities are from the Secretary's Supplemental Priorities and Definitions for Discretionary Grants Programs, published in the **Federal Register** on December 10, 2021 (86 FR 70612) (Supplemental Priorities).

Absolute Priorities: For FY 2024 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet each of these priorities.

These priorities are:

Absolute Priority 1—Strengthening Cross-Agency Coordination and Community Engagement To Advance Systemic Change

Projects that are designed to take a systemic evidence-based approach to improving outcomes for underserved students in one or more of the following priority areas:

(a) Coordinating efforts with Federal, State, or local agencies, or community-based organizations, that support students, to address two or more of the following:

- (1) Food assistance.
- (2) Housing.
- (3) Transportation.
- (4) Health, including physical health, mental health, and behavioral health and trauma.
- (5) Child care.
- (6) Technology.

(b) Conducting community needs and asset mapping to identify existing programs and initiatives that can be leveraged, and new programs and initiatives that need to be developed and implemented, to advance systemic change.

(c) Establishing cross-agency partnerships, or community-based partnerships with local nonprofit organizations, businesses, philanthropic organizations, or others, to meet family well-being needs.

Absolute Priority 2—Promoting Equity in Student Access to Educational Resources and Opportunities

Under this priority, an application must demonstrate that the project will be implemented by one or more of the following entities:

- (1) Community colleges (as defined in this notice).
- (2) Historically Black colleges and universities (as defined in this notice).
- (3) Tribal Colleges and Universities (as defined in this notice).
- (4) Minority-serving institutions (as defined in this notice).

Competitive Preference Priorities: For FY 2024 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 7 points for Competitive Preference Priority 1 and up to 3 points for Competitive Preference Priority 2, depending on how well the application meets these priorities. Applicants may respond to none, one, or both competitive preference priorities.

These priorities are:

Competitive Preference Priority 1—Meeting Student Social, Emotional, and Academic Needs (Up to 7 Points)

Projects that are designed to improve students' social, emotional, academic, and career development, with a focus on underserved students through creating a positive, inclusive, and identity-safe climate at IHEs through one or both of the following activities:

- (1) Fostering a sense of belonging and inclusion for underserved students. (up to 3 points)
- (2) Implementing evidence-based practices for advancing student success for underserved students. (up to 4 points)

Competitive Preference Priority 2—Increasing Postsecondary Education Access, Affordability, Completion, and Post-Enrollment Success (Up to 3 Points)

Projects that are designed to increase postsecondary access, affordability, completion, and success for underserved students by establishing a system of high-quality data collection and analysis, such as data on persistence, retention, completion, and post-college outcomes, for transparency, accountability, and institutional improvement.

Invitational Priorities: For FY 2024 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1), we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1—Leveraging Public Benefit Programs

Under this priority, we are particularly interested in projects that include one or more of the following activities:

- (a) Establishing processes to automatically identify and conduct

outreach to students who may be eligible for public benefit programs in accordance with recent Federal guidance.

(b) Conducting ongoing and timely surveys and assessments of student basic needs security, including surveys of student needs conducted upon enrollment.

(c) Providing referrals and case management to students to enroll in local, State, and Federal public benefit programs.

(d) Coordinating and collaborating with government and community-based organizations and providing direct services such as temporary housing, secure sleeping arrangements, free or subsidized food, and access to child care.

Invitational Priority 2—Developing a Campus-Wide Strategy To Address Student Mental Health Needs

Under this priority, we are particularly interested in projects that are designed to develop a campus-wide strategy to address student mental health needs. This includes creating inclusive campuses, increasing the availability of supportive and treatment services and access to additional staff, and implementing best practices, such as auditing existing campus mental health supports for effectiveness; identifying gaps and taking steps to tailor interventions to better meet the needs of vulnerable populations; implementing skill-training interventions; conducting routine screenings for depression, suicide risk, and anxiety; and investing in suicide means restriction.

Definitions: The definitions of "children or students with disabilities," "community college," "disconnected youth," "English learner," "Historically Black colleges and universities," "military- or veteran-connected student," "Minority-serving institution," "Tribal Colleges or Universities," and "underserved student" are from the Supplemental Priorities. The remaining definitions are from 34 CFR 77.1.

Children or students with disabilities means children with disabilities as defined in section 602(3) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1401(3)) and 34 CFR 300.8, or students with disabilities, as defined in the Rehabilitation Act of 1973 (29 U.S.C. 705(37), 705(20)(B)).

Note: Students with disabilities under 29 U.S.C. 705(20)(B) includes any individual with a disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

Community college means “junior or community college” as defined in section 312(f) of the Higher Education Act of 1965, as amended (HEA).

Demonstrates a rationale means a key project component included in the project’s logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Disconnected youth means an individual, between the ages of 14 and 24, who may be from a low-income background, experiences homelessness, is in foster care, is involved in the justice system, or is not working or not enrolled in (or at risk of dropping out of) an educational institution.

English learner means an individual who is an English learner as defined in section 8101(2) of the Elementary and Secondary Education Act of 1965, as amended, or an individual who is an English language learner as defined in section 203(7) of the Workforce Innovation and Opportunity Act.

Evidence-based means the proposed project component is supported by promising evidence or evidence that demonstrates a rationale.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (e.g., sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (e.g., assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (e.g., a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment

manipulation to determine whether the outcome is systematically related to the treatment.

Historically Black colleges and universities means colleges and universities that meet the criteria set out in 34 CFR 608.2.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (i.e., the active “ingredients” that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Note: In developing logic models, applicants may want to use resources such as the Regional Educational Laboratory Program’s (REL Pacific) Education Logic Model Application, available at <https://ies.ed.gov/ncee/edlabs/regions/pacific/elm.asp> to help design their logic models. Other sources include: https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014025.pdf, https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf, and https://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL_2015057.pdf.

Military- or veteran-connected student means one or more of the following:

(a) A child participating in an early learning program, a student enrolled in preschool through grade 12, or a student enrolled in career and technical education or postsecondary education who has a parent or guardian who is a member of the uniformed services (as defined by 37 U.S.C. 101), in the Army, Navy, Air Force, Marine Corps, Coast Guard, Space Force, National Guard, Reserves, National Oceanic and Atmospheric Administration, or Public Health Service or is a veteran of the uniformed services with an honorable discharge (as defined by 38 U.S.C. 3311).

(b) A student who is a member of the uniformed services, a veteran of the uniformed services, or the spouse of a service member or veteran.

(c) A child participating in an early learning program, a student enrolled in preschool through grade 12, or a student enrolled in career and technical education or postsecondary education who has a parent or guardian who is a veteran of the uniformed services (as defined by 37 U.S.C. 101).

Minority-serving institution means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA.

Project component means an activity, strategy, intervention, process, product,

practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (e.g., training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by What Works Clearinghouse (WWC) reporting a “strong evidence base” or “moderate evidence base” for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a “positive effect” or “potentially positive effect” on a relevant outcome with no reporting of a “negative effect” or “potentially negative effect” on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (e.g., a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (i.e., favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (e.g., establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbooks.

Relevant outcome means the student outcome(s) or other outcomes(s) the key project component is designed to improve, consistent with the specific goals of the program.

Tribal Colleges or Universities has the meaning ascribed it in section 316(b)(3) of the HEA.

Underserved student means a student in postsecondary education in one or more of the following subgroups:

(a) A student who is living in poverty or is served by schools with high concentrations of students living in poverty.

(b) A student of color.

(c) A student who is a member of a federally recognized Indian Tribe.

- (d) An English learner.
- (e) A child or student with a disability.
- (f) A disconnected youth.
- (g) A technologically unconnected youth.
- (h) A migrant student.
- (i) A student experiencing homelessness or housing insecurity.
- (j) A lesbian, gay, bisexual, transgender, queer or questioning, or intersex (LGBTQI+) student.
- (k) A student who is in foster care.
- (l) A student without documentation of immigration status.
- (m) A pregnant, parenting, or caregiving student.
- (n) A student impacted by the justice system, including a formerly incarcerated student.
- (o) A student who is the first in their family to attend postsecondary education.
- (p) A student enrolling in or seeking to enroll in postsecondary education for the first time at the age of 20 or older.
- (q) A student who is working full-time while enrolled in postsecondary education.
- (r) A student who is enrolled in or is seeking to enroll in postsecondary education who is eligible for a Pell Grant.
- (s) An adult student in need of improving their basic skills or an adult student with limited English proficiency.
- (t) A military- or veteran- connected student.

What Works Clearinghouse Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see 34 CFR 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

Note: The What Works Clearinghouse Procedures and Standards Handbook (Version 4.1), as well as the more recent What Works Clearinghouse Handbook released in August 2022 (Version 5.0), are available at <https://ies.ed.gov/ncee/wwc/Handbooks>.

Program Authority: 20 U.S.C. 1138–1138d; the Explanatory Statement accompanying Division D of the Further Consolidated Appropriations Act, 2024 (Pub. L. 118–47).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in the Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Guidance for Federal Financial Assistance in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The Supplemental Priorities.

Note: The U.S. Department of Education (ED) will implement the changes included in the Office of Management and Budget (OMB) final rule, *OMB Guidance for Federal Financial Assistance* (<https://www.federalregister.gov/documents/2024/04/22/2024-07496/guidance-for-federal-financial-assistance>), formerly called, Office of Management and Budget Guidance for Grants and Agreements, which amends 2 CFR part 200, on October 1, 2024. Grant applicants who anticipate a performance period start date on or after October 1, 2024, should follow the provisions stated in the updated 2 CFR part 200, when preparing an application. For more information about these updated regulations please visit: <https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>. ED will continue to provide more resources on our web page as they become available.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: \$9,583,334.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent fiscal years from the list of unfunded applications from this competition.

Estimated Range of Awards: \$500,000 to \$900,000.

Estimated Average Size of Award: \$750,000.

Maximum Award: We will not make an award exceeding \$900,000 for the entire project period of 36 months.

Estimated Number of Awards: 12.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Community colleges (as defined in this notice), and two- and four-year public and private Historically Black colleges and universities (as defined in this notice), Tribal Colleges and Universities (as defined in this notice), other Minority-serving institutions (as defined in this notice), or a consortium or system of eligible institutions.

For institutions other than community colleges, only institutions that the Department determines are eligible as Historically Black colleges and universities, Tribal Colleges and Universities, and other Minority-serving institutions, or which are granted a waiver in the notice published in the **Federal Register** one January 22, 2024 (89 FR 3916) announcing Eligibility Designations and Applications for Waiving Requirements, and that meet the other eligibility requirements described in this notice, may apply for a grant under those eligibility bases for this program.

Note: The list of institutions designated as eligible for FY 2024 under titles III and V of the HEA is available at <https://www2.ed.gov/about/offices/list/oep/ides/eligibility.html>.

2.a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see www2.ed.gov/about/offices/list/ocfo/intro.html.

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Guidance for Federal Financial Assistance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. Application Submission

Instructions: Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045), and available at www.federalregister.gov/d/202226554, which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the Basic Needs for Postsecondary Students Program, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define “business information” and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600 (Predisclosure Notification Procedures for Confidential Commercial Information), please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under “Other Attachments Form,” please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

4. *Funding Restrictions:* We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria and the priorities that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A “page” is 8.5” x 11”, on one side only, with 1” margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, and no smaller than 10-pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the Application for Federal Assistance form (SF-424); the ED SF-424 Supplement form; the Budget Information—Non-Construction Programs form (ED 524); the assurances and certifications; or the one-page project abstract and supporting budget narrative.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. An applicant may earn up to a total of 100 points based on the selection criteria and up to 10 additional points under the competitive preference priorities, for a total score of up to 110 points. The selection criteria are as follows:

(a) *Need for the project.* (up to 10 points)

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(1) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (up to 5 points)

(2) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses. (up to 5 points)

(b) *Quality of the project design.* (up to 30 points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the proposed project will integrate with or build on similar or related efforts to improve relevant outcomes (as defined in this notice), using existing funding streams from other programs or policies supported by community, State, and Federal resources. (up to 10 points)

(2) The extent to which the proposed project demonstrates a rationale (as defined in this notice). (up to 15 points)

(3) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (up to 5 points)

(c) *Quality of project services.* (up to 25 points)

The Secretary considers the quality of the services to be provided by the proposed project.

(1) In determining the quality of the services to be provided by the proposed project, the Secretary considers the

quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (up to 5 points)

(2) In addition, the Secretary considers the following factors:

(i) The likely impact of the services to be provided by the proposed project on the intended recipients of those services. (up to 5 points)

(ii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services. (up to 15 points)

(d) *Quality of project personnel.* (up to 10 points)

The Secretary considers the quality of the personnel who will carry out the proposed project.

(1) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (up to 3 points)

(2) In addition, the Secretary considers the qualifications, including relevant training and experience, of key project personnel. (up to 7 points)

(e) *Quality of the management plan.* (up to 10 points)

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(f) *Quality of the project evaluation.* (up to 15 points)

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (up to 5 points)

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes

of the project and will produce quantitative and qualitative data to the extent possible. (up to 5 points)

(3) The extent to which the methods of evaluation will, if well implemented, produce promising evidence (as defined in this notice) about the project's effectiveness (up to 5 points).

Note: For the selection criterion "Quality of personnel" in paragraph (d), applicants are encouraged to include in their application that they are committed to paying their staff a living wage for the local area and providing benefits.

2. Review and Selection Process: We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

A panel of three non-Federal reviewers will review and score each application in accordance with the selection criteria in this notice, as well as the competitive preference priorities. A rank order funding slate will be made from this review. Awards will be made in rank order according to the average score received from the peer review.

In the event there are two or more applications with the same final score, and there are insufficient funds to fully support each of these applications, the Department applies the following tie-breaking factors.

To resolve ties in the reader scores of applications, the Department will award one additional point to an application from an IHE with the highest percentage of degree/certificate-seeking students who are Pell grant recipients. If a tie remains after applying the preceding tiebreaker, the Department will award one additional point to an application from an IHE with the highest average score for the selection criterion "Quality of Project Services." If a tie remains after applying the preceding tiebreaker, the Department will award one additional point to an application from an IHE with the highest average score

for the selection criterion "Quality of the Project Design." If a tie remains after applying the preceding tiebreaker, the Department will award one additional point to an application from an IHE with the highest average score for the selection criterion "Quality of the Project Evaluation."

3. Risk Assessment and Specific Conditions: Consistent with 2 CFR 200.206, before awarding grants under this program, the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. Integrity and Performance System: If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

5. In General: In accordance with the Guidance for Federal Financial Assistance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. Award Notices: If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. Administrative and National Policy Requirements: We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. Open Licensing Requirements: Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and

selected for funding. For additional information on the open licensing requirements, please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

5. *Performance Measures:* For purposes of Department reporting under 34 CFR 75.110, the Department will use the following performance measures to evaluate the success of the Basic Needs for Postsecondary Students Program:

(1) The percentage of low-income students at the grantee institution served by any direct student service supported by the grant.

(2) The annual persistence rate at the grantee institution for all students who are served by any direct student service supported by the grant.

(3) By the end of the grant period, the rate of degree or certificate completion at the grantee institution for all students served by any direct student service supported by the grant.

(4) The level of basic needs insecurity among all students served by any direct student service supported by the grant, measured before and after implementation of the grant.

Note: For purpose of the performance measures, the term “low-income student” means a student—

(a) Who is eligible to receive a Federal Pell Grant for the award year for which the determination is made; or

(b) Who would otherwise be eligible to receive a Federal Pell Grant for the award year for which the determination is made, except that the student fails to meet the requirements of section 484(a)(5) of the HEA, 20 U.S.C. 1091(a)(5), because the student is in the United States for a temporary purpose.

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site, you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Nasser Paydar,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2024–12169 Filed 6–3–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Service Contract Inventory for Fiscal Year (FY) 2022

AGENCY: Office of Finance and Operations, Department of Education.

ACTION: Notice of availability—FY 2022 service contract inventory.

SUMMARY: Through this notice, the Secretary announces the availability of the Department of Education’s service contract inventory for FY 2022 on its website at www2.ed.gov/fund/data/report/contracts/servicecontractinventoryappendix/servicecontractinventory.html. A service contract inventory is a tool for assisting the agency in better understanding how contracted services are being used to support mission and operations and whether contract labor is being utilized in an appropriate and effective manner.

FOR FURTHER INFORMATION CONTACT: Nathan Watters, U.S. Department of

Education, Office of Finance and Operations, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 245–6942. Email: Nathan.Watters@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: Section 743 of Division C of the Consolidated Appropriations Act of 2010, Public Law 111–117, requires civilian agencies other than the Department of Defense, that are required to submit an inventory in accordance with the Federal Activities Inventory Reform Act of 1998 (Pub. L. 105–270, 31 U.S.C. 501 note) to submit their inventories to the Office of Federal Procurement Policy in the Office of Management and Budget. In addition, section 743 requires these agencies, which include the Department of Education, to (1) make the inventory available to the public, and (2) publish in the **Federal Register** a notice announcing that the inventory is available to the public along with the name, telephone number, and email address of the agency point of contact.

Through this notice, the Department announces the availability of its inventory for FY 2022 on the following website: www2.ed.gov/fund/data/report/contracts/servicecontractinventoryappendix/servicecontractinventory.html. The point of contact is provided under **FOR FURTHER INFORMATION CONTACT**.

Accessible Format: On request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site, you can view this document, as well as all other documents of this Department, published in the **Federal Register** in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov.

Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Richard J. Lucas,

*Principal Deputy Assistant Secretary,
Delegated the Authority to Perform the Duties
and Functions of the Office of Finance and
Operations Assistant Secretary.*

[FR Doc. 2024–12190 Filed 6–3–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[GDO Docket No. EA–510]

Application for Authorization To Export Electric Energy; MFT Energy US Power LLC

AGENCY: Grid Deployment Office,
Department of Energy.

ACTION: Notice of application.

SUMMARY: MFT Energy US Power LLC (the Applicant) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before July 5, 2024.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to Electricity.Exports@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Janessa Zucchetto, (240) 474–8226, Electricity.Exports@hq.doe.gov.

SUPPLEMENTARY INFORMATION: The United States Department of Energy (DOE) regulates electricity exports from the United States to foreign countries in accordance with section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)) and regulations thereunder (10 CFR 205.300 *et seq.*). Sections 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. 7151(b) and 7172(f)) transferred this regulatory authority, previously exercised by the now-defunct Federal Power Commission, to DOE.

Section 202(e) of the FPA provides that an entity which seeks to export electricity must obtain an order from DOE authorizing that export (16 U.S.C. 824a(e)). On April 10, 2023, the authority to issue such orders was delegated to the DOE's Grid Deployment Office (GDO) by Delegation Order No. S1–DEL–S3–2023 and Redesignation Order No. S3–DEL–GD1–2023.

On April 9, 2024, MFT Energy US Power LLC filed an application (Application or App.) with DOE to

transmit electric energy from the United States to Mexico for a ten-year term. App. at 1.

According to the Application, MFT Energy US Power LLC “is a limited liability company organized under the laws of the state of Delaware” with its principal place of business in Chicago, Illinois. *Id.* The Applicant states that it “does not own or control any electric power generation or transmission facilities and does not have a franchised electric power service area.” *Id.* Further, MFT Energy US Power LLC represents that it “operates as a power marketer” and holds market-based rate authority provided by the Federal Energy Regulatory Commission (FERC). *Id.* at 1–2.

The Applicant states it “will purchase surplus electric energy from entities within the United States to be exported to Mexico.” *Id.* at 4. Because the electric energy proposed to be exported will be surplus, the Applicant asserts its exports “will not impair the sufficiency of electric supply within the United States.” *Id.* Further, the Applicant states that “all electricity exported by Applicant will be transmitted pursuant to arrangements with utilities that own and operate existing transmission facilities and will be consistent with all applicable export limits on those transmitting facilities and with other terms and conditions contained in the applicable Presidential Permits.” App. at 5. Therefore, the Applicant asserts its exports will not impede the regional coordination of the electric grid. *Id.*

The existing international transmission facilities to be utilized by the Applicant have been previously authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties. *See* App. at Exhibit C.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at Electricity.Exports@hq.doe.gov. Protests should be filed in accordance with Rule 211 of Federal Energy Regulatory Commission's (FERC's) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at Electricity.Exports@hq.doe.gov in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning MFT Energy US Power LLC's Application should be clearly marked with GDO Docket No. EA–510. Additional copies are to be provided directly to Simon Fisker Rathjen, MFT Energy US Power LLC, 70 W Madison

Street, Chicago, Illinois 60602, sr@mft-energy.com and uspower@mft-energy.com; James C. Beh, Jones Day, 51 Louisiana Ave. NW, Washington, DC 20001, jcbeh@jonesday.com; and Brooke M. Proto, Jones Day, 51 Louisiana Ave. NW, Washington, DC 20001, bmproto@jonesday.com.

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the United States electric power supply system.

Copies of this Application will be made available, upon request, by accessing the program website at <https://www.energy.gov/gdo/pending-applications-0> or by emailing Electricity.Exports@hq.doe.gov.

Signing Authority: This document of the Department of Energy was signed on May 29, 2024, by Maria Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 30, 2024.

Treena V. Garrett,
*Federal Register Liaison Officer, U.S.
Department of Energy.*

[FR Doc. 2024–12186 Filed 6–3–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[GDO Docket No. EA–512]

Application for Authorization To Export Electric Energy; ATNV Energy, LP

AGENCY: Grid Deployment Office,
Department of Energy.

ACTION: Notice of application.

SUMMARY: ATNV Energy, LP (the Applicant) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before July 5, 2024.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to Electricity.Exports@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT:

Janessa Zucchetto, (240) 474-8226, Electricity.Exports@hq.doe.gov.

SUPPLEMENTARY INFORMATION: The United States Department of Energy (DOE) regulates electricity exports from the United States to foreign countries in accordance with section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)) and regulations thereunder (10 CFR 205.300 *et seq.*). Sections 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. 7151(b) and 7172(f)) transferred this regulatory authority, previously exercised by the now-defunct Federal Power Commission, to DOE.

Section 202(e) of the FPA provides that an entity which seeks to export electricity must obtain an order from DOE authorizing that export (16 U.S.C. 824a(e)). On April 10, 2023, the authority to issue such orders was delegated to the DOE's Grid Deployment Office (GDO) under Delegation Order No. S1-DEL-S3-2023 and Redelegation Order No. S3-DEL-GD1-2023.

On April 11, 2024, ATNV Energy, LP filed an application (Application or App.) with DOE to transmit electric energy from the United States to Mexico for a five-year term. App. at 1.

According to the Application, ATNV Energy, LP is "a Delaware limited partnership with its principal place of business in Houston, Texas." *Id.* ATNV Energy, LP states it is a "power marketer that does not own or operate a transmission system," and its owners do not own or control an interest in any electric generation, transmission, or distribution facilities. *Id.* at 1, 4. The Applicant represents that it is "authorized to sell wholesale energy, capacity, and ancillary services at market-based rates" and is subject to the Federal Energy Regulatory Commission's jurisdiction. *Id.* at 2.

ATNV Energy, LLP states it "will purchase the electric power to be exported in the markets in which it participates, on a firm or interruptible basis," and "[a]ny power purchased by the Applicant for export would be surplus to the needs of those entities selling power to the Applicant." *Id.* at 3-4. The Applicant also asserts its exports will comply with all North American Electric Reliability Corporation requirements and exports

limits imposed by DOE. *Id.* at 4. For these reasons, the Applicant contends that its exports "will not impair or tend to impede the sufficiency of electric supply in the United States or the regional coordination of electric utility planning or operations." *Id.* at 5.

The existing international transmission facilities to be utilized by the Applicant have been previously authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties. *See* App. at Attachment 1.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the email address provided previously. Protests should be filed in accordance with Rule 211 of FERC's Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the previously provided email address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning ATNV Energy, LP's Application should be clearly marked with GDO Docket No. EA-512. Additional copies are to be provided directly to Kolby Kettler, ATNV Energy, LP, 1321 Upland Dr., Ste. 2100, Houston, TX 77043, kolby@atnvenergy.com; Sarah Tucker, Sidley Austin LLP, 1501 K Street NW, Washington, DC 20005, stucker@sidley.com; and Keturah Brown, Sidley Austin LLP, 1501 K Street, NW, Washington, DC 20005, keturah.brown@sidley.com.

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the United States electric power supply system.

Copies of this Application will be made available, upon request, by accessing the program website at <https://www.energy.gov/gdo/pending-applications-0> or by emailing Electricity.Exports@hq.doe.gov.

Signing Authority: This document of the Department of Energy was signed on May 29, 2024, by Maria Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with

requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 30, 2024.

Treena V. Garrett,

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

[FR Doc. 2024-12189 Filed 6-3-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[GDO Docket No. EA-511]

Application for Authorization To Export Electric Energy; ATNV Energy, LP

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: ATNV Energy, LP (the Applicant) has applied for authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before July 5, 2024.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to Electricity.Exports@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Janessa Zucchetto, (240) 474-8226, Electricity.Exports@hq.doe.gov.

SUPPLEMENTARY INFORMATION: The United States Department of Energy (DOE) regulates electricity exports from the United States to foreign countries in accordance with section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)) and regulations thereunder (10 CFR 205.300 *et seq.*). Sections 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. 7151(b) and 7172(f)) transferred this regulatory authority, previously exercised by the now-defunct Federal Power Commission, to DOE.

Section 202(e) of the FPA provides that an entity which seeks to export electricity must obtain an order from DOE authorizing that export (16 U.S.C. 824a(e)). On April 10, 2023, the authority to issue such orders was delegated to the DOE's Grid Deployment Office (GDO) under Delegation Order

No. S1–DEL–S3–2023 and Redelegation Order No. S3–DEL–GD1–2023.

On April 11, 2024, ATNV Energy, LP filed an application (Application or App.) with DOE to transmit electric energy from the United States to Canada for a five-year term. App. at 1.

According to the Application, ATNV Energy, LP is “a Delaware limited partnership with its principal place of business in Houston, Texas.” *Id.* ATNV Energy, LP states it is a “power marketer that does not own or operate a transmission system[.]” and its owners do not own or control an interest in any electric generation, transmission, or distribution facilities. *Id.* at 1, 4. The Applicant represents that it is “authorized to sell wholesale energy, capacity, and ancillary services at market-based rates” and is subject to the Federal Energy Regulatory Commission’s jurisdiction. *Id.* at 2.

ATNV Energy, LP states it “will purchase the electric power to be exported in the markets in which it participates, on a firm or interruptible basis,” and “[a]ny power purchased by the Applicant for export would be surplus to the needs of those entities selling power to the Applicant.” *Id.* at 3–4. The Applicant also asserts its exports will comply with all North American Electric Reliability Corporation requirements and exports limits imposed by DOE. *Id.* at 4. For these reasons, the Applicant contends that its exports “will not impair or tend to impede the sufficiency of electric supply in the United States or the regional coordination of electric utility planning or operations.” *Id.* at 5.

The existing international transmission facilities to be utilized by the Applicant have been previously authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties. *See* App. at Attachment 1.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the email address provided previously. Protests should be filed in accordance with Rule 211 of FERC’s Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the previously provided email address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning ATNV Energy, LP’s Application should be clearly marked with GDO Docket No. EA–511. Additional copies are to be provided directly to Kolby Kettler, ATNV Energy,

LP, 1321 Upland Dr., Ste. 2100, Houston, TX 77043, kolby@atnvenergy.com; Sarah Tucker, Sidley Austin LLP, 1501 K Street NW, Washington, DC 20005, stucker@sidley.com; and Keturah Brown, Sidley Austin LLP, 1501 K Street NW, Washington, DC 20005, keturah.brown@sidley.com.

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE’s National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the United States electric power supply system.

Copies of this Application will be made available, upon request, by accessing the program website at <https://www.energy.gov/gdo/pending-applications-0> or by emailing Electricity.Exports@hq.doe.gov.

Signing Authority: This document of the Department of Energy was signed on May 29, 2024, by Maria Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 30, 2024.

Treena V. Garrett,

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

[FR Doc. 2024–12188 Filed 6–3–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[GDO Docket No. EA–469–A]

Application for Renewal of Authorization To Export Electric Energy; Puget Sound Energy, Inc.

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: Puget Sound Energy, Inc. (PSE or the Applicant) has applied for renewed authorization to transmit

electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before July 5, 2024.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to Electricity.Exports@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Janessa Zucchetto, (240) 474–8226, Electricity.Exports@hq.doe.gov.

SUPPLEMENTARY INFORMATION: The United States Department of Energy (DOE) regulates electricity exports from the United States to foreign countries in accordance with section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)) and regulations thereunder (10 CFR 205.300 *et seq.*). Sections 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. 7151(b) and 7172(f)) transferred this regulatory authority, previously exercised by the now-defunct Federal Power Commission, to DOE.

Section 202(e) of the FPA provides that an entity which seeks to export electricity must obtain an order from DOE authorizing that export (16 U.S.C. 824a(e)). On April 10, 2023, the authority to issue such orders was delegated to the DOE’s Grid Deployment Office (GDO) under Delegation Order No. S1–DEL–S3–2023 and Redelegation Order No. S3–DEL–GD1–2023.

On May 3, 2019, DOE issued Order No. EA–469 authorizing PSE to transmit electric energy from the United States to Canada for a term of five (5) years. On April 5, 2024, PSE filed an Application (Application or App.) for renewal of its export authority for a ten-year term or for such other period as DOE deems appropriate. App. at 1, 5.

According to the Application, “PSE is a public utility within the meaning of the FPA and is incorporated in the State of Washington.” *Id.* at 2. The Applicant states it “provides electric and natural gas services in a service territory covering approximately 6,000 square miles in the Puget Sound region[.]” *Id.* PSE states that its retail and wholesale business includes “the generation, purchase, transmission, distribution, and sale of electric energy[.]” *Id.* Additionally, the Applicant represents that it “owns or controls a number of generation resources that are physically located in, or pseudo-tied into, the PSE BAA that are designated as participating resources in the [Energy Imbalance Market]” administered by the California Independent System Operator Corporation. *Id.* at 3. The Applicant

represents that it is “authorized to sell energy, capacity, and ancillary services at market-based rates, and operates its transmission system pursuant to an Open Access Transmission Tariff (OATT) on file with the Federal Energy Regulatory Commission[.]” *Id.* at 2 (citation omitted). PSE asserts that its “proposed exports of electric energy will neither jeopardize the sufficiency of the electric supply nor the reliability of the transmission grid[.]” *Id.* at 3.

The existing international transmission facilities to be utilized by the Applicant have been previously authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties. See App at Exhibit C.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the email address provided previously. Protests should be filed in accordance with Rule 211 of FERC’s Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the previously provided email address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning PSE’s Application should be clearly marked with GDO Docket No. EA–469–A. Additional copies are to be provided directly to Jason Kuzma, Puget Sound Energy, Inc., P.O. Box 97034, Bellevue, WA 98009–9734, jason.kuzma@pse.com.

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE’s National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the United States electric power supply system.

Copies of this Application will be made available, upon request, by accessing the program website at <https://www.energy.gov/gdo/pending-applications-0> or by emailing Electricity.Exports@hq.doe.gov.

Signing Authority: This document of the Department of Energy was signed on May 29, 2024, by Maria Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal

Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 30, 2024.

Treena V. Garrett,

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

[FR Doc. 2024–12187 Filed 6–3–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Proposed Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Notice and request for comments.

SUMMARY: EIA invites public comment on the proposed three-year extension, with changes, to the Petroleum Marketing Program (PMP) as required under the Paperwork Reduction Act of 1995. EIA’s PMP collects volumetric and price information needed for determining the supply of and demand for crude oil and refined petroleum products. PMP consists of six surveys that collect data on petroleum products. EIA uses this information to monitor volumes and prices for crude oil and petroleum products.

DATES: EIA must receive all comments on this proposed information collection no later than August 5, 2024. If you anticipate any difficulty in submitting comments within that period, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

ADDRESSES: Written comments may only be sent electronically to petroleummarketingprogram@eia.gov.

FOR FURTHER INFORMATION CONTACT: Rosalyn Berry, U.S. Energy Information Administration, telephone (202) 586–2425, or by email at petroleummarketingprogram@eia.gov. The forms and instructions are available on EIA’s website at <https://www.eia.gov/survey/notice/marketing2024.php>.

SUPPLEMENTARY INFORMATION: Comments are invited on whether or not: (a) The proposed collection of information is necessary for the proper performance of agency functions, including whether the

information will have a practical utility; (b) EIA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, is accurate; (c) EIA can improve the quality, utility, and clarity of the information it will collect; and (d) EIA can minimize the burden of the collection of information on respondents, such as automated collection techniques or other forms of information technology.

This information collection request contains:

- (1) *OMB No.:* 1905–0174;
- (2) *Information Collection Request Title:* Petroleum Marketing Program;
- (3) *Type of Request:* Three-year extension with changes;
- (4) *Purpose:* The surveys included in the Petroleum Marketing Program collect volume and price information needed for determining the supply of and demand for crude oil and refined petroleum products. These surveys provide a basic set of data pertaining to the structure, efficiency, and behavior of petroleum markets. These data are published by EIA on its website, at <https://www.eia.gov>. The Petroleum Marketing Program consists of the following surveys:

Form EIA–14 *Refiners’ Monthly Cost Report*;

Form EIA–182 *Domestic Crude Oil First Purchase Report*;

Form EIA–856 *Monthly Foreign Crude Oil Acquisition Report*;

Form EIA–877 *Winter Heating Fuels Telephone Survey*;

Form EIA–878 *Motor Gasoline Price Survey*;

Form EIA–888 *On-Highway Diesel Fuel Price Survey*;

(4a) *Proposed Changes to Information Collection:*

Form EIA–888, On-Highway Diesel Fuel Price Survey (Potential Change to Data Collection Form and Instructions)

EIA proposes modifying Form EIA–888, On-Highway Diesel Fuel Price Survey, to include a checkbox allowing stations to indicate that they do not sell diesel fuel. This designation will make it easier to identify stations that are no longer in scope for the survey but are still in operation.

(4b) *Proposed Survey*

Discontinuations:

EIA is requesting the discontinuation and removal of the following four surveys from the Petroleum Marketing Program:

Form EIA–863, Petroleum Product Sales Identification Survey

The EIA–863, *Petroleum Product Sales Identification Survey*, has been

suspended since 2011, with the last completed survey cycle occurring for 2006 data. Surveys previously reliant on these data for sample design have implemented new sampling methodologies, which no longer require these data. EIA proposes formally discontinuing this survey.

Form EIA-782A, Refiners'/Gas Plant Operators' Monthly Petroleum Product Sales Report, Form EIA-782C, Monthly Report of Prime Supplier Sales of Petroleum Products Sold for Local Consumption, and Form EIA-821, Annual Fuel Oil and Kerosene Sales Report

To concentrate limited EIA and respondent resources on more timely products, EIA proposes eliminating the EIA-782A, *Refiners'/Gas Plant Operators' Monthly Petroleum Product Sales Report*, the EIA-782C, *Monthly Report of Prime Supplier Sales of Petroleum Products Sold for Local Consumption*, and the EIA-821, *Annual Fuel Oil and Kerosene Sales Report*, surveys. EIA remains committed to balancing the costs associated with collecting data (for both respondents and taxpayers) with the benefits of providing a more complete data set. The U.S. energy industry is dynamic, and our surveys and publications have and will continue to evolve to provide the best value to the American people in support of efficient energy markets. We continue to explore opportunities to incorporate similar data from other sources.

(5) *Annual Estimated Number of Respondents*: 4,710;

(6) *Annual Estimated Number of Total Responses*: 178,880;

(7) *Annual Estimated Number of Burden Hours*: 26,489;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden*: \$2,414,737 (26,489 annual burden hours multiplied by \$91.16 per hour), a reduction from \$5,162,402 (63,226 annual burden hours multiplied by \$81.65 per hour) in 2021. EIA estimates that respondents will have no additional costs associated with the surveys other than the burden hours and the maintenance of the information during the normal course of business.

Statutory Authority: 15 U.S.C. 772(b) and 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on May 30, 2024.

Samson A. Adeshiyan,

Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.

[FR Doc. 2024-12198 Filed 6-3-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2423-031]

Great Lakes Hydro America, LLC; Notice of Availability of Draft Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for license for the Riverside Hydroelectric Project, located on the Androscoggin River in Coos County, New Hampshire and has prepared a Draft Environmental Assessment (DEA) for the project. No Federal land is occupied by project works or located within the project boundary.

The DEA contains staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major Federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the DEA via the internet through the Commission's Home Page (<http://www.ferc.gov/>), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov, or toll-free at (866) 208-3676, or for TTY, (202) 502-8659.

You may also register online at <https://ferconline.ferc.gov/eSubscription.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at <https://ferconline.ferc.gov/ferconline.aspx>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting

Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-2423-031.

Any questions regarding this notice may be directed to Ryan Hansen at (202) 502-8074 or ryan.hansen@ferc.gov.

Dated: May 29, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-12182 Filed 6-3-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER11-3216-002; ER11-3218-002; ER14-1690-002.

Applicants: Monterey SW LLC, Monterey MW, LLC, MA, LLC.

Description: Notice of Non-Material Change in Status of Monterey MA, LLC, et al.

Filed Date: 5/29/24.

Accession Number: 20240529-5130.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER14-1818-027.

Applicants: Boston Energy Trading and Marketing LLC.

Description: Updated Market Power Analysis for Central Region of Boston Energy Trading and Marketing LLC.

Filed Date: 5/29/24.

Accession Number: 20240529-5131.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24-839-001.

Applicants: EF Oxnard LLC.

Description: Compliance filing: Amendment to Notice of Non-Material Change in Status and MBR Tariff Revisions to be effective 3/11/2024.

Filed Date: 5/29/24.

Accession Number: 20240529-5084.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24-1248-002.

Applicants: Northern Indiana Public Service Company LLC.

Description: Tariff Amendment: NIPSCO NEET Construction Agreement Supplement to be effective 6/13/2024.

Filed Date: 5/29/24.

Accession Number: 20240529-5068.

Comment Date: 5 p.m. ET 6/10/24.

Docket Numbers: ER24-1850-001.

Applicants: Atrisco BESS SF LLC.
Description: Tariff Amendment: Amendment to Lease Agreement in Docket ER24–1850 to be effective 5/1/2024.

Filed Date: 5/28/24.

Accession Number: 20240528–5325.

Comment Date: 5 p.m. ET 6/7/24.

Docket Numbers: ER24–2084–002.

Applicants: American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: Tariff Amendment: American Electric Power Service Corporation submits tariff filing per 35.17(b): Second Amendment to CIAC, SA No. 6679 to be effective 4/29/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5074.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2116–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 4132R1 Choctaw Fields Solar Project Surplus Inter GIA to be effective 7/29/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5003.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2117–000.

Applicants: Louisiana Generating LLC.

Description: Request to recover costs associated with acting as a local balancing authority of Louisiana Generating LLC.

Filed Date: 5/28/24.

Accession Number: 20240528–5344.

Comment Date: 5 p.m. ET 6/18/24.

Docket Numbers: ER24–2119–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 1518R27 Arkansas Electric Cooperative Corp NITSA NOA to be effective 8/1/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5036.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2120–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 1166R43 Oklahoma Municipal Power Authority NITSA and NOA to be effective 8/1/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5047.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2121–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 205(d) Rate Filing: 2024–05–29 SA 3074 Termination of OTP–MDU–NSP MPFCA Sub 1st Rev (J436 J437) to be effective 5/30/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5049.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2122–000.

Applicants: Arizona Public Service Company.

Description: 205(d) Rate Filing: Service Agreement No. 420, Serrano Solar Surplus Interconnection to be effective 4/29/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5078.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2123–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original NSA, Service Agreement No. 7288; AC2–195 to be effective 7/29/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5102.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2124–000.

Applicants: AEP Texas Inc.

Description: 205(d) Rate Filing: AEPTX-Zenobe City Breeze BESS Generation Interconnection Agreement to be effective 5/29/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5107.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2126–000.

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

Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Neoen U.S. (Lydia Solar) LGIA Termination Filing to be effective 5/29/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5108.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2127–000.

Applicants: Innovative Solar 31, LLC.

Description: Compliance filing: Revisions to MBR Tariffs to Update Category Seller Status in SE Region to be effective 5/30/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5147.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2128–000.

Applicants: Innovative Solar 47, LLC.

Description: Compliance filing: Revisions to MBR Tariffs to Update Category Seller Status in SE Region to be effective 5/30/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5152.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2129–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original NSA, Service Agreement No.

7287; AF2–356 to be effective 7/29/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5153.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2130–000.

Applicants: MN8 Energy Marketing LLC.

Description: Compliance filing: Revisions to MBR Tariffs to Update Category Seller Status in SE Region to be effective 5/30/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5154.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2131–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA, SA No. 5692; Queue No. AF1–198 (amend) to be effective 7/29/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5159.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2132–000.

Applicants: Forked River Power LLC.

Description: Baseline eTariff Filing: Reactive Power Rate Schedule to be effective 7/1/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5187.

Comment Date: 5 p.m. ET 6/20/24.

Docket Numbers: ER24–2133–000.

Applicants: New York Independent System Operator, Inc.

Description: 205(d) Rate Filing: NYISO 205: Proposal to implement HSRs, expand CSR options, and enhance FSRs to be effective 4/16/2024.

Filed Date: 5/29/24.

Accession Number: 20240529–5213.

Comment Date: 5 p.m. ET 6/20/24.

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

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

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

The Commission's Office of Public Participation (OPP) supports meaningful

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

Dated: May 29, 2024.
Debbie-Anne A. Reese,
Acting Secretary.
[FR Doc. 2024–12180 Filed 6–3–24; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC24–19–000]

Commission Information Collection Activities (FERC–566); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.
ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collections,

FERC–566 (Annual Report of a Utility’s 20 Largest Purchasers).

DATES: Comments on the collections of information are due August 5, 2024.

ADDRESSES: You may submit copies of your comments (identified by Docket No. IC24–19–000) on FERC–566 by one of the following methods:

Electronic filing through <http://www.ferc.gov> is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

○ *Mail via U.S. Postal Service Only:*
Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (including courier) delivery:*
Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov>. For user assistance, contact FERC Online Support by email at ferconlinesupport@ferc.gov, or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov>.

FOR FURTHER INFORMATION CONTACT: Jean Sonneman may be reached by email at

DataClearance@FERC.gov, or by telephone at (202) 502–6362.

SUPPLEMENTARY INFORMATION:
Title: FERC–566: Annual Report of a Utility’s 20 Largest Purchasers.
OMB Control No.: 1902–0114.

Type of Request: Three-year extension of the FERC–566 information collection requirements with no revisions to the current requirements.

Abstract: Section 305(c) of the Federal Power Act (FPA),¹ mandates federal oversight and approval of certain electric corporate activities to ensure that neither public nor private interests are adversely affected. The FPA prescribes information filing requirements to achieve this goal. These filing requirements are found at 18 CFR 46.3, and serve as the basis for FERC–566.

FERC–566 implements FPA requirements that each public utility annually publishes a list of the 20 purchasers which purchased the largest annual amounts of electric energy sold by such public utility during any of the three previous calendar years. The public disclosure of this information provides the information necessary to determine whether an interlocked position is with any of the 20 largest purchasers of electric energy.

Type of Respondents: Public utilities.

Estimate of Annual Burden: The Commission estimates 371 responses annually, and 4 hours and \$400 per response. The total estimated burdens per year are 1,484 hours and \$148,400. These burdens are itemized in the following table:

Number of respondents	Annual number of responses per respondent	Total number of responses (Column A × Column B)	Average burden & cost per response ²	Total annual burden hours & total annual cost (Column C × Column D)	Cost per respondent (\$) (Column E ÷ Column A)
A.	B.	C.	D.	E.	F.
371	1	371	4 hrs.; \$400	1,484 hrs.; \$148,400	\$400

¹ 16 U.S.C. 825d.

Comments: Please submit comments on (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 29, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-12179 Filed 6-3-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC24-18-000]

Commission Information Collection Activities (FERC-65, FERC-65A, and FERC-65B) Consolidated Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collections, FERC-65 (Notice of Holding Company Status), FERC-65A (Exemption Notification of holding Company Status), and FERC-65B (Waiver Notification of Holding Company Status).

DATES: Comments on the collection of information are due August 5, 2024.

ADDRESSES: You may submit comments (identified by Docket No. IC24-18-000) by either of the following methods:

Electronic filing through <http://www.ferc.gov>, is preferred.

• *Electronic Filing:* Documents must be filed in acceptable native

applications and print-to-PDF, but not in scanned or picture format.

• For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

○ *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (including courier) Delivery to:* Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov>. For user assistance, contact FERC Online Support by email at ferconlinesupport@ferc.gov, or by phone at (866) 208-3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov>.

FOR FURTHER INFORMATION CONTACT: Jean Sonneman may be reached by email at DataClearance@FERC.gov, telephone at (202) 502-6362.

SUPPLEMENTARY INFORMATION:

Title: FERC-65 (Notice of Holding Company Status), FERC-65A (Exemption Notification of Holding Company Status), and FERC-65B (Waiver Notification of Holding Company Status).

OMB Control No.: 1902-0218.

Type of Request: Three-year extension of the FERC-65, FERC-65A and FERC-65B information collection requirements with no changes to the current reporting requirements.

Abstract:

FERC-65 (Notice of Holding Company Status)

Pursuant to section 366.4 of the Commission's rules and regulations, persons who meet the definition of a holding company shall provide the Commission notification of holding company status. The FERC-65 is a one-time informational filing. The FERC-65 must be submitted within 30 days of becoming a holding company¹. While the Commission does not require the information to be reported in a specific format, the filing needs to consist of the

¹ Persons that meet the definition of a holding company as provided by 366.1 as of February 8, 2006 shall notify the Commission of their status as a holding company no later than June 15, 2006. Holding companies formed after February 8, 2006 shall notify the Commission of their status as a holding company, no later than the latter of June 15, 2006 or 30 days after they become holding companies.

name of the holding company, the name of public utilities, the name of natural gas companies in the holding company system, and the names of service companies. In addition, the Commission requires the filing to include the names of special-purpose subsidiaries (which provide non-power goods and services) and the names of all affiliates and subsidiaries (and their corporate interrelationship) to each other. Filings may be submitted in hardcopy or electronically through the Commission's eFiling system.

FERC-65A (Exemption Notification of Holding Company Status)

While noting the previously outlined requirements of the FERC-65, the Commission has allowed for an exemption from the requirement of providing the Commission with a FERC-65 if the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or if any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company. Persons seeking this exemption file the FERC-65A, which must include a form of notice suitable for publication in the **Federal Register**. Those who file a FERC-65A in good faith will have a temporary exemption upon filing. After 60 days if the Commission has taken no action, the exemption will be deemed granted. Commission regulations within 18 CFR 366.3 describe the criteria in more specificity.

FERC-65B (Waiver Notification of Holding Company Status)

If an entity meets the requirements in 18 CFR 366.3(c), they may file a FERC-65B waiver notification pursuant to the procedures outlined in 18 CFR 366.4. Specifically, the Commission waives the requirement of providing it with a FERC-65 for any holding company with respect to one or more of the following: (1) single-state holding company systems; (2) holding companies that own generating facilities that total 100 MW or less in size and are used fundamentally for their own load or for sales to affiliated end-users; or (3) investors in independent transmission-only companies. Filings may be made in hardcopy or electronically through the Commission's website.

Type of Respondent: Public utility companies, natural gas companies, electric wholesale generators, foreign utility holding companies.

² Commission staff estimates that the average industry hourly cost for this information collection is approximated by the current FERC 2024 average hourly costs for wages and benefits, *i.e.*, \$100.00/hour.

Estimate of Annual Burden:² The reporting burden for the information Commission estimates the annual public collection as:

FERC-65 (NOTIFICATION OF HOLDING COMPANY STATUS), FERC-65A (EXEMPTION NOTIFICATION OF HOLDING COMPANY STATUS), AND FERC-65B (WAIVER NOTIFICATION OF HOLDING COMPANY STATUS)

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response ³	Total annual burden hours & total annual cost (\$)	Cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
FERC-65	12	1	12	3 \$300.00	36 \$3,600	\$300.00
FERC-65A	4	1.25	5	1 \$100.00	5 \$500.00	\$125.00
FERC-65B	4	1.75	7	1 \$100.00	7 \$700.00	175.00
Total			24		48 \$4,800.00	

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 29, 2024.
Debbie-Anne A. Reese,
Acting Secretary.
[FR Doc. 2024-12183 Filed 6-3-24; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

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

Filings Instituting Proceedings

Docket Numbers: RP24-778-000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: (d) Rate Filing: Negotiated Rate Agreements Nextera

² Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide

and Sequent Filing May 2024 to be effective 6/1/2024.
Filed Date: 5/28/24.
Accession Number: 20240528-5241.
Comment Date: 5 p.m. ET 6/10/24.
Docket Numbers: RP24-779-000.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing: TETLP May 2024 Penalty Disbursement Report to be effective N/A.
Filed Date: 5/29/24.
Accession Number: 20240529-5092.
Comment Date: 5 p.m. ET 6/10/24.
The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.asp>) by querying the docket number.

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

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

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in

information to or for a Federal agency. Refer to 5 CFR 1320.3 for additional information.
³ The Commission staff estimates that the average respondent for this collection is similarly situated

Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: May 29, 2024.
Debbie-Anne A. Reese,
Acting Secretary.
[FR Doc. 2024-12184 Filed 6-3-24; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1121-136]

Pacific Gas and Electric Company; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 CFR part 380, Commission staff reviewed Pacific Gas and Electric Company's (PG&E) application for an amendment to the license of the Battle Creek Hydroelectric Project No. 1121 and have prepared an

to the Commission, in terms of salary plus benefits. Based on FERC's 2024 annual average of \$207,786 (for salary plus benefits), the average hourly cost is \$100/hour.

Environmental Assessment (EA) for the proposed amendment. PG&E is proposing to remove Inskip Diversion Dam, adjacent infrastructure, fish ladder, and approximately 30,000 to 56,000 cubic yards of sediment from behind the dam. No changes to long-term operations of the project are proposed. The Battle Creek Hydroelectric Project consists of five developments that divert water from the North and South Forks of Battle Creek, and several tributaries and springs, for power generation. The project is located on Battle Creek, and North Fork and South Fork Battle Creek in Shasta and Tehama counties, California. The project occupies Federal lands managed by the U.S. Forest Service and the U.S. Bureau of Land Management.

The EA contains Commission staff's analysis of the potential environmental effects of removing Inskip Diversion Dam, and concludes that the proposed amendment, with appropriate environmental protective measures, would not constitute a major Federal action that would significantly affect the quality of the human environment.

The EA may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number (P-1121) in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

All comments must be filed by June 28, 2024.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne Reese, Acting Secretary, Federal Energy

Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-1121-136.

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

For further information, contact Rebecca Martin at 202-502-6012 or Rebecca.Martin@ferc.gov.

Dated: May 29, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-12181 Filed 6-3-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Loveland Area Projects, Western Area Colorado Missouri Balancing Authority, and Colorado River Storage Project—Rate Order No. WAPA-214

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order extending transmission and ancillary services formula rates.

SUMMARY: The extension of the Rocky Mountain (RM) region's existing Loveland Area Projects (LAP) transmission and LAP, Western Area Colorado Missouri Balancing Authority (WACM), and Colorado River Storage Project (CRSP) ancillary services formula rates has been confirmed, approved, and placed into effect on an interim basis. The existing formula rates under Rate Schedules L-NT1 (network), L-FPT1 (firm point-to-point), L-NFPT1 (non-firm point-to-point), L-NFJDT (joint dispatch transmission), L-UU1 (unreserved use), L-AS1 (scheduling and dispatch), L-AS2 (reactive supply and voltage control support), L-AS3 (regulation), L-AS4 (energy imbalance), L-AS5 (spinning reserves), L-AS6 (supplemental reserves), L-AS7 (balancing authority real power losses), and L-AS9 (generator imbalance) are set to expire on September 30, 2024. This rate extension makes no changes to the

existing formula rates and extends them through September 30, 2026.

DATES: The extended formula rates under Rate Schedules L-NT1, L-FPT1, L-NFPT1, L-NFJDT, L-UU1, L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, L-AS7, and L-AS9 will be placed into effect on an interim basis on October 1, 2024.

FOR FURTHER INFORMATION CONTACT:

Barton Barnhart, Regional Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538-8986, or email: LAPtransadj@wapa.gov, or Sheila Cook, Rates Manager, Rocky Mountain Region, Western Area Power Administration, (970) 685-9562, or email: scook@wapa.gov.

SUPPLEMENTARY INFORMATION: Western Area Power Administration (WAPA) published a **Federal Register** notice (Proposed FRN) on February 7, 2024 (89 FR 8423), proposing to extend the existing formula rates under Rate Schedules L-NT1, L-FPT1, L-NFPT1, L-NFJDT, L-UU1, L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, L-AS7, and L-AS9. The Proposed FRN also initiated a 30-day public consultation and comment period.

Legal Authority

By Delegation Order No. S1-DEL-RATES-2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the WAPA Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1-DEL-S3-2023, effective April 10, 2023, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3-DEL-WAPA1-2023, effective April 10, 2023, the Under Secretary for Infrastructure further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This extension is issued under Redelegation Order No. S3-DEL-WAPA1-2023 and Department of Energy rate extension procedures set forth at 10 CFR part 903.¹

¹ 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

Following review of RM's proposal, Rate Order No. WAPA-214 is hereby confirmed, approved, and placed into effect on an interim basis. This extends, without adjustment, the existing Rate Schedules L-NT1, L-FPT1, L-NFPT1, L-NFJDT, L-UU1, L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, L-AS7, and L-AS9 through September 30, 2026. WAPA will submit Rate Order No. WAPA-214 and the extended rate schedules to FERC for confirmation and approval on a final basis.

Department of Energy

Administrator, Western Area Power Administration

In the Matter of: Western Area Power Administration, Extension for the Rocky Mountain Region, Transmission and Ancillary Services, Formula Rates; Rate Order No. WAPA-214

Order Confirming, Approving, and Placing the Formula Rates for the Loveland Area Projects, Western Area Colorado Missouri Balancing Authority, and the Colorado River Storage Project Into Effect on an Interim Basis

The formula rates in Rate Order No. WAPA-214 are established following section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152).¹

By Delegation Order No. S1-DEL-RATES-2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the Western Area Power Administration (WAPA) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1-DEL-S3-2023, effective April 10, 2023, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3-DEL-WAPA1-2023, effective April 10, 2023, the Under Secretary for

Infrastructure further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This extension is issued under Redelegation Order No. S3-DEL-WAPA1-2023 and DOE rate extension procedures set forth at 10 CFR part 903.²

Background

On March 9, 2017, FERC approved and confirmed Loveland Area Projects (LAP) transmission and LAP, Western Area Colorado Missouri Balancing Authority (WACM), and Colorado River Storage Project (CRSP) ancillary services formula rates under Rate Schedules L-NT1 (network), L-FPT1 (firm point-to-point), L-NFPT1 (non-firm point-to-point), L-UU1 (unreserved use), L-AS1 (scheduling and dispatch), L-AS2 (reactive supply and voltage control support), L-AS3 (regulation), L-AS4 (energy imbalance), L-AS5 (spinning reserves), L-AS6 (supplemental reserves), L-AS7 (transmission losses), and L-AS9 (generator imbalance) under Rate Order No. WAPA-174 for a 5-year period through September 30, 2021.³

On December 29, 2020, WAPA's Administrator approved rates for short-term sales for the Rocky Mountain (RM) region to use under the Western Energy Imbalance Service (WEIS) Market under Rate Schedules L-NFJDT (joint dispatch transmission), L-AS4, (generator imbalance), L-AS7 (balancing authority real power losses), and L-AS9 (generator imbalance). The new short-term Rate Schedules L-AS4, L-AS7, and L-AS9 superseded Rate Schedules L-AS4, L-AS7, and L-AS9 under Rate Order No. WAPA-174, for the 8-month period of February 1, 2021, through September 30, 2021.

On March 10, 2022, FERC confirmed and approved Rate Order No. WAPA-196 extending Rate Schedules L-NT1, L-FPT1, L-NFPT1, L-UU1, L-AS1, L-AS2, L-AS3, L-AS5, and L-AS6 through September 30, 2024, on a final basis.⁴

On March 29, 2022, FERC confirmed and approved Rate Order No. WAPA-197, putting long-term rates in place for RM to use under the WEIS Market under Rate Schedules L-NFJDT (joint dispatch transmission), L-AS4 (energy imbalance), L-AS7 (balancing authority

real power losses), and L-AS9 (generator imbalance) through September 30, 2024, on a final basis.⁵

Details about the rate schedules and the formula rates are viewable on RM's website at: www.wapa.gov/about-wapa/regions/rm/rm-rates. The existing rates continue the formula-based methodology that includes an annual update to the data in the rate formulas, which provides adequate revenue to recover annual expenses, including interest expense, and repay capital investments within allowable time periods. This ensures repayment within the cost recovery criteria set forth in DOE Order RA 6120.2.

Discussion

In accordance with 10 CFR 903.23(a), RM filed a notice in the **Federal Register** (Proposed FRN) on February 7, 2024, proposing to extend, without adjustment, Rate Schedules L-NT1, L-FPT1, L-NFPT1, L-NFJDT, L-UU1, L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, L-AS7, and L-AS9 under Rate Order No. WAPA-214.⁶ RM determined it was not necessary to hold public information or public comment forums on the proposed formula rate extension, but provided a 30-day consultation and comment period to give the public an opportunity to comment on the proposed extension. The consultation and comment period ended on March 8, 2024, and RM received one written comment letter.

Written comments were received from the following organization: Colorado River Energy Distributors Association, Arizona.

Comments

The comments expressed have been paraphrased and/or combined, where appropriate, without compromising the meaning of the comments.

Comment: The commenter supports the proposed formula rate extension as described in the Proposed FRN. The commenter also requested revising and removing language referenced in the Proposed FRN which "may be interpreted to go beyond the language contained in the Administrator's September 8, 2023, directive, and refers to potential future actions that are the subject of separate processes."

Response: RM appreciates the support for this rate action. RM had no intention of using language that could be interpreted to go beyond the Administrator's directive. RM agrees the

¹ This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts that specifically apply to the projects involved.

² 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

³ *Order Confirming and Approving Rate Schedules on a Final Basis*, FERC Docket Nos. EF16-5-000 and EF16-5-001, 158 FERC ¶ 62,181 (2017).

⁴ *Order Confirming and Approving Rate Schedules on a Final Basis*, FERC Docket Nos. EF21-8-000 and EF21-10-000, 178 FERC ¶ 62,147 (2022).

⁵ *Order Confirming and Approving Rate Schedules on a Final Basis*, FERC Docket No. EF21-9-000, 178 FERC ¶ 62,177 (2022).

⁶ 89 FR 8423 (2024).

Proposed FRN language refers to specific future events subject to separate processes and a more general reference to future market activity could have been used. The intent of including the language in the Proposed FRN was to provide context for pursuing an extension as opposed to a major rate action, along with the reasoning for the length of the extension period.

Ratemaking Procedure Requirements Environmental Compliance

Categorical exclusion determinations were previously issued for these rates under the following categorical exclusion listed in appendix B to subpart D of 10 CFR part 1021: B4.3 (Electric power marketing rate changes).⁷ Those categorical exclusion determinations are also applicable to this rate action. Copies of the categorical exclusion determinations are available on RM's website at: www.wapa.gov/about-wapa/regions/rm/rm-environment. The file titled "2016-077-Proposed Formula Rate Adjustment for Transmission Ancillary Services and Sale of Surplus" is located within the "2016" folder, and the file titled "2021-088 Rate Change Extension CX-WAPA-197-03262024" is located within the "2024" folder.

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The provisional formula rates herein confirmed, approved, and placed into

effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

Order

In view of the above and under the authority delegated to me, I hereby confirm, approve, and place into effect on an interim basis, Rate Order No. WAPA-214, which extends the existing LAP transmission and LAP, WACM, and CRSP ancillary services formula rates under Rate Schedules L-NT1, L-FPT1, L-NFPT1, L-NFJDT, L-UU1, L-AS1, L-AS2, L-AS3, L-AS4, L-AS5, L-AS6, L-AS7, and L-AS9 through September 30, 2026. The rates will remain in effect on an interim basis until: (1) FERC confirms and approves of this extension on a final basis, (2) subsequent rates are confirmed and approved, or (3) such rates are superseded.

Signing Authority

This document of the Department of Energy was signed on May 28, 2024, by Tracey A. LeBeau, Administrator, Western Area Power Administration, 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 May 30, 2024.

Treena V. Garrett,
*Federal Register Liaison Officer, U.S.
Department of Energy.*

Rate Schedule L-NT1

Attachment H to OATT

(Supersedes Rate Schedule L-NT1 dated October 1, 2011, through September 30, 2016)

**United States Department of Energy
Western Area Power Administration
Rocky Mountain Region**

Loveland Area Projects

Network Integration Transmission Service

*(Approved Under Rate Order No.
WAPA-174)*

Effective

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024, and by Rate Order No. WAPA-214 through September 30, 2026.]

Applicable

The Transmission Customer will compensate the Loveland Area Projects Transmission Service Provider (LAPT) each month for Network Integration Transmission Service under the applicable Network Integration Transmission Service Agreement and the Annual Transmission Revenue Requirement described herein.

Formula Rate

$$\text{Monthly Charge} = \frac{\text{Annual Transmission Revenue Requirement (\$)}}{12} \times \text{Network Service Customer's Load Ratio Share}$$

⁷ The determination was done in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321-4347, the

Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500-1508); and

DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

A calculated Annual Transmission Revenue Requirement will go into effect every October 1 based on updated financial projections and the true-up of previous projections. The Annual Transmission Revenue Requirement will be posted on the LAPT Open Access Same-Time Information System website.

**Rate Schedule L-FPT1
Schedule 7 to OATT
(Supersedes Rate Schedule L-FPT1 dated October 1, 2011, through September 30, 2016)**
**United States Department of Energy
Western Area Power Administration
Rocky Mountain Region
Loveland Area Projects
Long-Term Firm and Short-Term Firm Point-to-Point Transmission Service**
(Approved Under Rate Order No. WAPA-174)
Effective
The first day of the first full billing period beginning on or after October 1,

2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024, and by Rate Order No. WAPA-214 through September 30, 2026.]
Applicable
The Transmission Customer shall compensate the Loveland Area Projects Transmission Service Provider (LAPT) each month for reserved capacity under the applicable Firm Point-to-Point Transmission Service Agreement and the formula rate described herein.
Formula Rate

Firm
Point-to-Point
Transmission
Service Formula Rate

=

Annual Transmission Revenue Requirement (\$)

Firm Transmission Capacity Reservations (kW) plus
Network Integration Transmission Service Capacity (kW)

A calculated charge will go into effect every October 1 based on the formula above, updated financial and load projections, and the true-up of previous projections. The annual charge will be posted on the LAPT Open Access Same-Time Information System (OASIS) website.

Discounts

Three principal requirements apply to discounts for transmission service as follows: (1) any offer of a discount made by LAPT must be announced to all eligible customers solely by posting on the LAPT OASIS website; (2) any customer-initiated requests for discounts, including requests for use by LAP Marketing, must occur solely by posting on the LAPT OASIS website; and (3) once a discount is negotiated, details must be immediately posted on the LAPT OASIS website. For any discount agreed upon for service on a path, from Point(s) of Receipt to Point(s) of Delivery, LAPT must offer the same

discounted transmission service rate for the same time period to all eligible customers on all unconstrained transmission paths that go to the same point(s) of delivery on the transmission system.
**Rate Schedule L-NFPT1
Schedule 8 to OATT
(Supersedes Rate Schedule L-NFPT1 dated October 1, 2011, through September 30, 2016)**
**United States Department of Energy
Western Power Area Administration
Rocky Mountain Region
Loveland Area Projects
Non-Firm Point-to-Point Transmission Service**
(Approved Under Rate Order No. WAPA-174)
Effective
The first day of the first full billing period beginning on or after October 1,

2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024, and by Rate Order No. WAPA-214 through September 30, 2026.]
Applicable
The Transmission Customer will compensate the Loveland Area Projects Transmission Service Provider (LAPT) for Non-Firm Point-to-Point Transmission Service under the applicable Non-Firm Point-to-Point Transmission Service Agreement and the formula rate described herein.
Formula Rate

Maximum Non-Firm Point-to-Point
Transmission Service Formula Rate

=

Firm Point-to-Point
Transmission Service Formula Rate

A calculated charge will go into effect every October 1 based on the formula above, updated financial and load projections, and the true-up of previous projections. The annual charge will be posted on the LAPT Open Access Same-

Time Information System (OASIS) website.
Discounts
Three principal requirements apply to discounts for transmission service as

follows: (1) any offer of a discount made by LAPT must be announced to all eligible customers solely by posting on the LAPT OASIS website; (2) any customer-initiated requests for discounts, including requests for use by

LAP Marketing, must occur solely by posting on the LAPT OASIS; and (3) once a discount is negotiated, details must be immediately posted on the LAPT OASIS. For any discount agreed upon for service on a path, from Point(s) of Receipt to Point(s) of Delivery, LAPT must offer the same discounted transmission service charge for the same time period to all eligible customers on all unconstrained transmission paths that go to the same point(s) of delivery on the transmission system.

Rate Schedule L–NFJDT

Schedule 8R to OATT Attachment R (Supersedes Rate Schedule L–NFJDT dated February 1, 2021, through September 30, 2021)

**United States Department of Energy
Western Area Power Administration
Rocky Mountain Region
Loveland Area Projects
Joint Dispatch Transmission Service**

*(Approved Under Rate Order No.
WAPA–197)*

Effective

The first day of the first full billing period beginning on or after October 1, 2021, and extending through September 30, 2024, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA–214 through September 30, 2026.]

Applicable

This rate schedule applies to the Loveland Area Projects (LAPT) as the Transmission Service Provider (TSP) when the Rocky Mountain region is participating in the Western Energy Imbalance Service (WEIS) Market. The Joint Dispatch Transmission Service (JDTS) Customer shall compensate the LAPT TSP for JDTS commensurate with the receipt or delivery of energy dispatched for the JDTS Customer pursuant to the WEIS Tariff under the formula rate described herein.

Formula Rate

Hourly delivery:

On-Peak Hours: the on-peak charge
\$0.00/MWh

Off-Peak Hours: the off-peak charge
\$0.00/MWh

Rate Schedule L–UU1

Schedule 10 to OATT

(Supersedes Rate Schedule L–UU1 dated October 1, 2011, through September 30, 2016)

**United States Department of Energy
Western Area Power Administration
Rocky Mountain Region
Loveland Area Projects
Unreserved Use Penalties**

*(Approved Under Rate Order No.
WAPA–174)*

Effective

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA–196 through September 30, 2024, and by Rate Order No. WAPA–214 through September 30, 2026.]

Applicable

The Transmission Customer shall compensate the Loveland Area Projects Transmission Service Provider (LAPT) each month for any unreserved use of the transmission system (Unreserved Use) under the applicable transmission service formula rates as described herein. Unreserved Use occurs when an eligible customer uses transmission service it has not reserved, or a Transmission Customer uses transmission service in excess of its reserved capacity. Unreserved Use may also include a Transmission Customer's failure to curtail transmission when requested, a Network Integration Transmission Service (Network) Customer's scheduled delivery of off-system, non-designated purchases using transmission capacity reserved for designated Network resources, and a Network Customer's use of Network service or secondary service to facilitate a wholesale sale that does not serve a Network load.

Penalty Rate

The penalty charge for a Transmission Customer who engages in Unreserved Use is 200 percent of the Loveland Area Project's approved formula rate for Firm Point-to-Point Transmission Service assessed as follows: the Unreserved Use Penalty for a single hour of Unreserved Use is based upon the charge for daily Firm Point-to-Point Transmission Service. The Unreserved Use Penalty for more than one assessment for a given duration (e.g., daily) increases to the next longest duration (e.g., weekly). The

Unreserved Use Penalty for multiple instances of Unreserved Use (e.g., more than one hour) within a day is based on the charge for daily Firm Point-to-Point Transmission Service. The Unreserved Use Penalty for multiple instances of Unreserved Use isolated to one calendar week is based on the charge for weekly Firm Point-to-Point Transmission Service. The Unreserved Use Penalty for multiple instances of Unreserved Use during more than one week in a calendar month is based on the charge for monthly Firm Point-to-Point Transmission Service.

A Transmission Customer who exceeds their reserved capacity at any point of receipt or point of delivery, or an eligible customer who uses transmission service at a point of receipt or point of delivery it has not reserved, is required to pay for all ancillary services provided by LAPT and associated with the Unreserved Use. The Transmission Customer will pay for ancillary services based on the amount of transmission service it used and did not reserve.

Rate Schedule L–AS1

Schedule 1 to OATT

(Supersedes Rate Schedule SP–SD4 and Rate Schedule L–AS1 dated October 1, 2011, through September 30, 2016)

**United States Department of Energy
Western Area Power Administration
Rocky Mountain Region
Colorado River Storage Project
Loveland Area Projects**

**Western Area Colorado Missouri
Balancing Authority**

**Scheduling, System Control, and
Dispatch Service**

*(Approved Under Rate Order No.
WAPA–174)*

Effective

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA–196 through September 30, 2024, and by Rate Order No. WAPA–214 through September 30, 2026.]

Applicable

This rate schedule applies to Colorado River Storage Project Transmission (CRCM) and Loveland Area Projects Transmission (LAPT) as Transmission Service Providers (TSPs) and to Western Area Colorado Missouri Balancing

Authority (WACM) as the Control Area operator. Scheduling, System Control, and Dispatch Service is required to schedule the movement of power through, out of, within, or into WACM. This service can be provided only by the operator of the Control Area in which the transmission facilities used for transmission service are located.

The CRCM and LAPT TSPs must offer this service, and the federal Transmission Customers must purchase

this service from the CRCM and LAPT TSPs. WACM provides this service on behalf of all TSPs within WACM and those TSPs must purchase this service from WACM.

The charge will be applied to all schedules, except those for the delivery of transmission losses to WACM. WACM will accept any number of scheduling changes over the course of the day without any additional charge. Unless other arrangements are made

with WACM, the charge will be allocated equally among all TSPs, both federal and non-federal, listed on the schedule who are inside WACM. The federal transmission segments of the schedule are exempt from invoicing, as costs for these segments are included in the CRCM and LAPT transmission service rates.

Formula Rate

Charge
per
Schedule

=

Annual Cost of Scheduling Personnel and Related Costs (\$)

Number of Schedules per Year, excluding schedules for
Delivery of Losses to WACM

The annual cost of scheduling personnel and related costs includes annual costs associated with transmission scheduling (*i.e.*, personnel, facilities, equipment, and software, as well as credits representing fees for agent services).

The number of schedules per year is the yearly total of daily tags which result in a schedule, excluding loss schedules.

A calculated charge will go into effect every October 1 based on the formula above and updated financial and schedule data. The annual charge will be posted on the CRCM and LAPT Open Access Same-Time Information System websites.

**Rate Schedule L-AS2
Schedule 2 to OATT
(Supersedes Rate Schedule SP-RS4 and Rate Schedule L-AS2 dated October 1, 2011, through September 30, 2016)**

**United States Department of Energy
Western Area Power Administration
Rocky Mountain Region
Colorado River Storage Project
Loveland Area Projects
Western Area Colorado Missouri
Balancing Authority
Reactive Supply and Voltage Control
From Generation or Other Sources
Service**

(Approved Under Rate Order No. WAPA-174)

Effective

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs first. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024, and by Rate Order No. WAPA-214 through September 30, 2026.]

Applicable

This rate schedule applies to Colorado River Storage Project (CRCM) and Loveland Area Projects (LAPT) as Transmission Service Providers (TSPs) and to Western Area Colorado Missouri Balancing Authority (WACM) as the

Control Area operator. Reactive Supply and Voltage Control from Generation or Other Sources Services (VAR Support Service) is required to maintain transmission voltages on the TSPs' transmission facilities within acceptable limits, using generation facilities and non-generation resources capable of providing this service to produce or absorb reactive power. Thus, VAR Support Service must be provided for each transaction on the transmission facilities within the Control Area. The amount of VAR Support Service supplied to the transmission transactions will be based on the VAR Support Service necessary to maintain transmission voltages within limits generally accepted in the region and consistently adhered to by WACM.

The CRCM and LAPT TSPs must offer this service for each transaction and the federal Transmission Customers must purchase this service from the CRCM and LAPT TSPs, unless the Transmission Customer has generating resources capable of providing VARs directly connected to a federal transmission facility owned and operated by CRCM and/or LAPT and has executed a contract stipulating all the provisions of their self-supply. If WACM provides VAR Support Service on behalf of any non-federal TSP, VAR Support Service will be assessed based on either the TSP's reserved capacity or the tagged megawatt usage of the TSP's Transmission Customers.

Formula Rate

VAR
Support Service
Formula Rate

=

Annual Revenue Requirement for VAR Support Service (\$)

Transmission Transactions Requiring
VAR Support Service (kW)

The annual revenue requirement for VAR Support Service equals the revenue requirement for federal generation times the % of resource capacity used for VAR Support Service (1 minus power factor) plus other resources, *e.g.*, energy and transmission costs for condensing federal generating units minus applicable revenue credits related to WACM providing service.

The transmission transactions requiring VAR Support Service equals transmission capacity use of the federal transmission systems; including point-to-point and network service on LAPT and CRCM transmission systems.

A calculated charge will go into effect every October 1 based on the formula above and updated financial and capacity data. The annual charge will be posted on the CRCM and LAPT Open Access Same-Time Information System websites.

Rate Schedule L-AS3

Schedule 3 to OATT

(Supersedes Rate Schedule SP-FR4 and Rate Schedule L-AS3 dated October 1, 2011, through September 30, 2016)

**United States Department of Energy
Western Area Power Administration**

Rocky Mountain Region

Colorado River Storage Project

Loveland Area Projects

**Western Area Colorado Missouri
Balancing Authority**

**Regulation and Frequency Response
Service**

*(Approved Under Rate Order No.
WAPA-174)*

Effective

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024, and by Rate Order No. WAPA-214 through September 30, 2026.]

Applicable

This rate schedule applies to Colorado River Storage Project (CRCM) and Loveland Area Projects (LAPT) as Transmission Service Providers (TSPs) and to Western Area Colorado Missouri Balancing Authority (WACM) as the

Control Area operator. Regulation and Frequency Response Service (Regulation Service) is necessary to provide for the continuous balancing of resources, generation, and interchange with load and for maintaining scheduled interconnection frequency at sixty cycles per second (60 Hz). Regulation Service is accomplished by committing on-line generation whose output is raised or lowered, predominantly through the use of automatic generation control (AGC) equipment as necessary, to follow the moment-by-moment changes in load. All loads inside the Control Area consume regulation; therefore, WACM, by default, provides Regulation Service to all loads inside the Control Area.

The CRCM and LAPT TSPs offer this service when transmission service is used to serve load within WACM, and the federal Transmission Customers must purchase this service from the CRCM and LAPT TSPs or make alternative comparable arrangements with WACM to satisfy their regulation obligations. For the Load Serving Entities (LSEs) who are not taking transmission service from CRCM and LAPT, WACM will assess Regulation Service charges for their load and for their variable resources inside WACM.

The formula rate will be assessed to all applicable federal Transmission Customers and to all applicable non-federal LSEs serving load inside WACM.

Formula Rate

$$\begin{array}{rcl}
 \text{Regulation} & & \text{Total Annual Revenue Requirement for Regulation Service (\$)} \\
 \text{Service} & = & \text{-----} \\
 \text{Formula Rate} & & \text{Load inside WACM Requiring Regulation Service (kW)} \\
 & & + \\
 & & \text{(Installed Nameplate Capacity of Wind Generators Serving Load inside WACM} \\
 & & \text{X} \\
 & & \text{Wind Capacity Multiplier) (kW)} \\
 & & + \\
 & & \text{(Installed Nameplate Capacity of Solar Generators Serving Load inside WACM} \\
 & & \text{X} \\
 & & \text{Solar Capacity Multiplier) (kW)}
 \end{array}$$

The total annual revenue requirement for Regulation Service includes such costs as LAP and CRSP plant costs, purchases of regulation products, purchases of power in support of the generating units' ability to regulate, purchases of transmission for regulating units trapped geographically inside another balancing authority, purchases of transmission required to relocate

energy due to regulation/load following issues, and lost on-peak sales opportunities resulting from the requirement to generate at night to permit units to have "down" regulating capability.

The total load for Regulation Service equals load inside WACM requiring Regulation Service, plus the installed nameplate capacity of wind generators

serving load inside WACM times the wind capacity multiplier, plus the installed nameplate capacity of solar generators serving load inside WACM times the solar capacity multiplier.

A calculated charge will go into effect every October 1 based on the formula above and updated financial, load, and capacity multiplier data. The annual charge and multipliers will be posted on

the CRCM and LAPT Open Access Same-Time Information System websites.

Types

There are two different applications of this formula rate:

1. *Load-based Assessment*: The charge is assessed on an entity's auxiliary load (total metered load less applicable federal entitlements) and on the amount stated in any BA or transmission service agreements. The charge is also applied to the installed nameplate capacity of all variable energy resources, including wind and solar generators, serving load inside WACM multiplied by the applicable annually calculated Capacity Multiplier.

2. *Self-provision Assessment*: WACM allows entities with AGC to self-provide for all or a portion of their loads. Entities with AGC are known as Sub-Balancing Authorities (SBA) and must meet all of the following criteria:

- a. Have a well-defined boundary, with WACM-approved revenue-quality metering, accurate as defined by the North American Electric Reliability Corporation (NERC), to include megawatt (MW) flow data availability at 6-second or smaller intervals;
- b. Have AGC responsive unit(s);
- c. Demonstrate Regulation Service capability; and
- d. Execute a contract with WACM in which entities agree to:
 - i. Provide all requested data to WACM.
 - ii. Meet SBA error criteria as described below.

Self-provision is measured by use of the entity's 1-minute average Area Control Error (ACE) to determine the amount of self-provision. The ACE is used to calculate the Regulation Service charges every hour as follows:

- a. If the entity's 1-minute average ACE for the hour is less than or equal to 0.5 percent of its hourly average load, no Regulation Service charge is assessed for that hour.
- b. If the entity's 1-minute average ACE for the hour is greater than or equal to 1.5 percent of its hourly average load, WACM assesses Regulation Service charges to the entity's entire auxiliary load, using the hourly Load-based Assessment applied to the entity's auxiliary 12-cp load for that month.
- c. If the entity's 1-minute average ACE for the hour is greater than 0.5 percent of its hourly average load, but less than 1.5 percent of its hourly average load, WACM assesses Regulation Service charges based on linear interpolation of zero charge and full charge, using the hourly Load-based Assessment applied

to the entity's auxiliary 12-cp load for that month.

d. WACM monitors the entity's Self-provision on a regular basis. If WACM determines the entity has not been attempting to self-regulate, WACM will, upon notification, employ the Load-based Assessment described in No. 1, above.

Alternative Arrangements

Exporting Variable Resource Requirement: WACM does not provide Regulation Service to variable resources inside the WACM Control Area which are not used to serve load inside the WACM Control Area. An entity that exports the output from a variable generator to another Control Area will be required to dynamically meter or dynamically schedule the resource out of the WACM Control Area to another Control Area unless arrangements, satisfactory to WACM, are made for the entity to acquire this service from a third party or self-supply (as outlined below). A variable generator is one whose output is volatile and variable due to factors beyond direct operational control and, therefore, is not dispatchable.

Self- or Third-party Supply: WACM may allow an entity to supply some or all of its required regulation, or contract with a third party to do so. This entity must have revenue quality metering at every load and generation point, accurate as defined by NERC, to include MW flow data availability at 6-second or smaller intervals. WACM will evaluate the entity's metering, telecommunications and regulating resource, as well as the required level of regulation, and determine whether the entity qualifies to self-supply under this provision. If approved, the entity is required to enter into a separate agreement with WACM which will specify the terms of the self-supply application.

Customer Accommodation

For entities unwilling to take Regulation Service, self-provide as described above, or acquire the service from a third party, WACM will assist the entity in dynamically metering its loads/resources to another Control Area. Until such time as meter configuration is accomplished, the entity will be responsible for charges assessed under the formula rate in effect.

Rate Schedule L-AS4

Schedule 4R to OATT Attachment R

(Supersedes Rate Schedule L-AS4 dated February 1, 2021, through September 30, 2021)

United States Department of Energy
Western Area Power Administration
Rocky Mountain Region
Loveland Area Projects
Western Area Colorado Missouri
Balancing Authority

Energy Imbalance Service

(Approved Under Rate Order No. WAPA-197)

Effective

The first day of the first full billing period beginning on or after October 1, 2021, and extending through September 30, 2024, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-214 through September 30, 2026.]

Applicable

This rate schedule applies to the Western Area Colorado Missouri Balancing Authority (WACM) as the Balancing Authority Area (BAA) operator and to Loveland Area Projects (LAPT) as the Transmission Service Provider (TSP) when the Rocky Mountain region (RM) is participating in the Western Energy Imbalance Service (WEIS) Market and the WEIS Market is providing such ancillary service.

Within the BAA(s) in the WEIS Market footprint, Energy Imbalance Service is provided when a difference occurs between the expected and the actual delivery of energy within such BAA(s) over a Dispatch Interval.

All loads in the WEIS Market will be subject to settlement related to Energy Imbalance Service in the WEIS Market. Southwest Power Pool, Inc. (SPP), as the WEIS Market administrator, will obtain and provide this service under the WEIS Market and will calculate and bill applicable charges and credits.

As a participating balancing authority in the WEIS Market footprint, WACM is required to register loads and resources for non-participating entities within the WACM BAA. Such entities must enter into separate agreements with WACM which will specify the terms of the Energy Imbalance Service contracted through the WEIS Market.

The LAPT TSP offers this service when the transmission service is used to serve load within the WACM BAA, and the Transmission Customers must either purchase this service from the LAPT

TSP or make alternative arrangements with WACM to satisfy their Energy Imbalance Service obligations.

Formula Rate

Charges shall reflect the pass-through of all applicable charges/credits associated with the WEIS Tariff assessed to RM for embedded load in the WACM BAA of such entity that does not make adequate alternate arrangements in the WEIS Market to satisfy its Energy Imbalance Service obligation. RM will also charge an administrative fee to cover RM's cost of administering this service on behalf of such entities.

The WEIS charges/credits attributed to specific settlement location(s) (as defined in the WEIS Tariff) will be passed directly through to the applicable asset owners (as defined in the WEIS Tariff) at those settlement location(s). Other WEIS charges/credits, *i.e.*, WEIS Administration costs, will be allocated based on each entity's proportional share of Net Energy for Load (NEL) (or as otherwise determined by the WEIS administrator).

RM's Administrative Fee will be allocated to the non-participating entities using the higher of either RM's calculated minimum fee or the entity's proportional share of the non-participating entities' NEL.

Rate Schedule L-AS5

Schedule 5 to OATT

(Supersedes Rate Schedule L-AS5 dated October 1, 2011, through September 30, 2016)

**United States Department of Energy
Western Area Power Administration
Rocky Mountain Region
Loveland Area Projects and Western
Area Colorado Missouri Balancing
Authority**

Operating Reserve—Spinning Reserve Service

(Approved Under Rate Order No. WAPA-174)

Effective

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024, and by Rate Order No. WAPA-214 through September 30, 2026.]

Applicable

This rate schedule applies to Loveland Area Projects (LAPT) as the

Transmission Service Provider (TSP) and to Western Area Colorado Missouri Balancing Authority (WACM) as the Control Area operator. Spinning Reserve Service is needed to serve load immediately in the event of a system contingency. Spinning Reserve Service may be provided by generating units that are on-line and loaded at less than maximum output.

The LAPT TSP must offer this service when transmission service is used to serve load within WACM and the federal Transmission Customers must purchase this service from the LAPT TSP or make alternative comparable arrangements with WACM to satisfy their Spinning Reserve obligations. WACM may be willing to provide Spinning Reserves to other entities, providing the entities enter into separate agreements with WACM which will specify the terms of the Spinning Reserve Service.

Formula Rate

The LAPT TSP and WACM have no Spinning Reserves available for sale. At a customer's request, the Rocky Mountain region will purchase Spinning Reserves and pass through the cost and any activation energy, plus a fee for administration. The customer will be responsible for providing the transmission to deliver the Spinning Reserves purchased.

Rate Schedule L-AS6

Schedule 6 to OATT

(Supersedes Rate Schedule L-AS6 dated October 1, 2011, through September 30, 2016)

**United States Department of Energy
Western Area Power Administration
Rocky Mountain Region
Loveland Area Projects and Western
Area Colorado Missouri Balancing
Authority**

Operating Reserve—Supplemental Reserve Service

(Approved Under Rate Order No. WAPA-174)

Effective

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024, and by Rate Order No. WAPA-214 through September 30, 2026.]

Applicable

This rate schedule applies to the Loveland Area Projects (LAPT) as the Transmission Service Provider (TSP) and the Western Area Colorado Missouri Balancing Authority (WACM) as the Control Area operator. Supplemental Reserve Service is needed to serve load in the event of a system contingency; however, it is not available immediately to serve load but rather within a short period of time. Supplemental Reserve Service may be provided by generating units that are on-line but unloaded, by quick-start generation, or by interruptible load.

The LAPT TSP must offer this service when the transmission service is used to serve load within WACM, and the federal Transmission Customers must purchase this service from the LAPT TSP or make alternative comparable arrangements with WACM to satisfy their Supplemental Reserve obligations. WACM may be willing to provide Supplemental Reserves to other entities, providing the entities enter into separate agreements with WACM which will specify the terms of the Supplemental Reserve Service.

Formula Rate

The LAPT TSP and WACM have no Supplemental Reserves available for sale. At a customer's request, the Rocky Mountain region will purchase Supplemental Reserves and pass through the cost and any activation energy, plus a fee for administration. The customer will be responsible for providing the transmission to deliver the Supplemental Reserves purchased.

Rate Schedule L-AS7

(Supersedes Rate Schedule L-AS7 dated February 1, 2021, through September 30, 2021)

**United States Department of Energy
Western Area Power Administration
Rocky Mountain Region
Western Area Colorado Missouri
Balancing Authority**

Balancing Authority Real Power Losses Service

(Approved Under Rate Order No. WAPA-197)

Effective

The first day of the first full billing period beginning on or after October 1, 2021, and extending through September 30, 2024, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-214 through September 30, 2026.]

Applicable

This rate schedule applies to the Western Area Colorado Missouri Balancing Authority (WACM) as the Balancing Authority Area (BAA) operator when the Rocky Mountain region is participating in the Western Energy Imbalance Service (WEIS) Market. Balancing Authority (BA) Real Power Losses Service is needed to account for the energy loss of the transmission systems within the BAA, which the BAA operator must account for and be compensated where applicable. BA Real Power Losses are applicable for all real-time and prescheduled transactions on transmission facilities inside the WACM BAA.

In accordance with WACM's Business Practices, the BA Real Power Losses obligation falls: (1) to load inside the WACM BAA; (2) to the last Transmission Service Provider (TSP) inside the WACM BAA listed on the applicable import, export, or wheeled-through point-to-point transmission service schedule; or (3) to the TSP which any dynamically transferred load and generation is connected to. This prevents duplicate assessment of the real power losses for schedules which involve more than one TSP inside the WACM BAA.

Formula Rate

WACM's BA Real Power Loss Factor Percentage is posted in WACM's "Ancillary Services and Losses" Business Practices which is posted on the Loveland Area Projects Transmission (LAPT) Open Access Same-Time Information System website.

Entities with load in the WACM BAA are required to submit balanced load forecasts and actual meter data with real power losses included.

Financial settlement for applicable point-to-point transactions and for load and generation which have been dynamically transferred out of WACM BAA into another BAA, as detailed in WACM's "Ancillary Services and Losses" Business Practices, will be calculated using WACM's then current BA Real Power Loss Factor Percentage and a charge assessed based on the WEIS Market's hourly Locational Marginal Price for the LAP settlement location.

Rate Schedule L-AS9**Schedule 9R to OATT Attachment R (Supersedes Rate Schedule L-AS9 dated February 1, 2021, through September 30, 2021)****United States Department of Energy
Western Area Power Administration****Rocky Mountain Region****Loveland Area Projects****Western Area Colorado Missouri
Balancing Authority****Generator Imbalance Service**

(Approved Under Rate Order No. WAPA-197)

Effective

The first day of the first full billing period beginning on or after October 1, 2021, and extending through September 30, 2024, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-214 through September 30, 2026.]

Applicable

This rate schedule applies to the Western Area Colorado Missouri Balancing Authority (WACM) as the Balancing Authority Area (BAA) operator and to Loveland Area Projects (LAPT) as the Transmission Service Provider (TSP) when the Rocky Mountain region (RM) is participating in the Western Energy Imbalance Service (WEIS) Market and the WEIS Market is providing such ancillary service.

Within the BAA(s) in the WEIS Market footprint, Generator Imbalance Service is provided when a difference occurs between the expected and the actual delivery of energy within such BAA(s) over a Dispatch Interval. All resources in the WEIS Market will be subject to settlement related to Generator Imbalance Service in the WEIS Market. Southwest Power Pool, Inc. (SPP), as the WEIS Market administrator, will obtain and provide this service under the WEIS Market and will calculate and bill applicable charges and credits.

As a participating balancing authority in the WEIS Market footprint, WACM is required to register loads and resources for non-participating entities within the WACM BAA. Such entities must enter into separate agreements with WACM which will specify the terms of the Generator Imbalance Service contracted through the WEIS Market.

The LAPT TSP offers this service, to the extent it is physically feasible to do so from its resources or from resources available to it, when Transmission

Service is used to deliver energy from a generator located within the WACM BAA and the Transmission Customers must either purchase this service from the LAPT TSP or make alternative arrangements with WACM to satisfy their Generator Imbalance Service obligations.

Formula Rate

Charges shall reflect the pass-through of all applicable charges/credits associated with the WEIS Tariff assessed to RM for embedded resources in the WACM BAA of such entity that does not make adequate alternate arrangements in the WEIS Market to satisfy its Generator Imbalance Service obligation. RM will also charge an administrative fee to cover RM's cost of administering this service on behalf of such entities.

The WEIS charges/credits attributed to specific settlement location(s) (as defined in the WEIS Tariff) will be passed directly through to the applicable asset owners (as defined in the WEIS Tariff) at the settlement location(s).

RM's Administrative Fee will be allocated using the higher of either RM's calculated minimum fee or the entity's proportional share of the non-participating entities' Net Energy for Load.

[FR Doc. 2024-12212 Filed 6-3-24; 8:45 am]

BILLING CODE 6450-01-P

**ENVIRONMENTAL PROTECTION
AGENCY**

[EPA-HQ-OPP-2024-0154; FRL-11988-01-OCSPP]

**Dicamba; Pesticide Product
Registration; Notice of Receipt of
Application for New Use; Request for
Comment**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application proposing to register new uses for a new pesticide product containing a currently registered active ingredient. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on this application.

DATES: Comments must be received on or before July 5, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2024-0154, through the *Federal eRulemaking Portal* at <https://www.regulations.gov>. Follow

the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Director, Registration Division (7505M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-1030; email address: RDfrNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through email or <https://www.regulations.gov>. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see guidance provided at <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Registration Application

EPA has received the following application to register new uses for a new pesticide product containing a currently registered active ingredient. Pursuant to FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby

providing notice of receipt of this application and an opportunity to comment on the information provided below as well as the current proposed labeling associated with this application. Notice of receipt of this application does not imply a decision by the Agency on this application.

File Symbol: 7969-LNT. *Docket ID number:* EPA-HQ-OPP-2024-0154. *Applicant:* BASF Corporation, 26 Davis Drive, Research Triangle Park, North Carolina 27709-3528. *Active ingredient:* Dicamba. *Product type:* Herbicide. *Proposed use:* Dicamba-tolerant cotton and dicamba-tolerant soybeans. *Contact:* RD. This proposed new use has been coded as an R170, additional food use, which carries a PRIA 5 statutory review time of 17 months from the date that the action gets in-processed. Because EPA expects a large stakeholder interest in this application, EPA also included in the docket the BASF's current proposed labeling associated with the application.

(Authority: 7 U.S.C. 136 *et seq.*)

Dated: May 29, 2024.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2024-12109 Filed 6-3-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-11970-01-R8]

Clean Air Act Operating Permit Program; Order on Petition for Objection to State Operating Permit for DCP Operating Company, LP: Platteville Natural Gas Processing Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an order dated April 2, 2024, granting a petition dated September 19, 2023, from the Center for Biological Diversity. The petition requested that the EPA object to the Clean Air Act (CAA) operating permits issued by the Colorado Department of Public Health and Environment (CDPHE) to DCP Operating Company, LP for its Platteville Natural Gas Processing Plant, located in Weld County, Colorado.

FOR FURTHER INFORMATION CONTACT: Donald Law, EPA Region 8, telephone number: (303) 312-7015, email address: law.donald@epa.gov. The final order and petition are available electronically at: <https://www.epa.gov/title-v>

operating-permits/title-v-petition-database.

SUPPLEMENTARY INFORMATION: The EPA received a petition from the Center for Biological Diversity dated September 19, 2023, requesting that the EPA object to the issuance of operating permit no. 02OPWE252 issued by CDPHE to DCP Operating Company, LP in Weld County, Colorado. On April 2, 2024, the EPA Administrator issued an order granting in part and denying in part the petition. The order itself explains the basis for the EPA's decision.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request judicial review of those portions of an order that deny issues in a petition. Any petition for review shall be filed in the United States Court of Appeals for the appropriate circuit no later than August 5, 2024.

KC Becker,

Regional Administrator, Region 8.

[FR Doc. 2024-12217 Filed 6-3-24; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-24-24FY; Docket No. CDC-2024-0046]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Lung Function Screening of Construction Workers with Exposure to Dusts and Chemicals. The goal of the proposed study is to determine if small airway dysfunction or early-stage disease can consistently be identified in high-risk workers with normal spirometry.

DATES: CDC must receive written comments on or before August 5, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2024–0046 by either of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to www.regulations.gov.

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are

publishing this notice of a proposed data collection as described below. The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Lung Function Screening in Construction Workers Exposed to Dusts and Chemicals—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Construction workers are routinely exposed to a number of inhaled toxins known to contribute to the development of chronic respiratory disease. A 2010 industry study suggested that over 50% of construction workers reported occupational exposure to vapors, gases, dusts, and fumes (VGDF) at least twice a week and that nearly 18% of ever-employed construction industry workers have abnormal lung function. In fact, construction workers are

approximately 1.64 times more likely to have airway obstruction than other working groups within the U.S. trades.

An emerging lung function test procedure called impulse oscillometry (IOS) is more sensitive than spirometry, the standard test for monitoring worker pulmonary function. IOS can identify small airway functional status with the potential to identify those with often reversible abnormalities within the small airways (<2mm diameter). Thus, the goal of the proposed study is to determine if small airway dysfunction or early-stage disease can consistently be identified by IOS in high-risk workers with normal spirometry.

Two construction worker groups will be enrolled: (1) those at risk for respirable silica exposure (*i.e.*, blockmasons or bricklayers); and (2) workers with occupational exposure to welding fumes and metals (*i.e.*, welders). NIOSH researchers will collect questionnaire information pertaining to respiratory symptomology, smoking history, job-type tenure, worksite mitigation strategies, and personal protective equipment use. Height, weight, blood pressure and lung function testing measures will also be performed. The amount of personal identifiable information collected will be limited, but it is necessary to collect each worker’s age, month and year of birth, sex assigned at birth, race/ethnicity, and smoking history to evaluate lung function test results. Additional medical data will be collected to reduce the risk of adverse effects or transmission of infectious disease to subjects performing lung function.

CDC requests a two-year OMB approval for an estimate 83 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Eligible Study Participants	Informed Consent	75	1	20/60	25
Study Participants	Height, Weight, and Demographics ..	75	1	10/60	13
Study Participants	Study Questionnaire	75	1	10/60	13
Spirometry Lung Function Test Results.	Spirometry Test Report	75	1	15/60	19
Impulse Oscillometry Test Results	Oscillometry Test Report	75	1	10/60	13
Total .....	.....	.....	.....	.....	83

Jeffrey M. Zirger,

Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.

[FR Doc. 2024-12232 Filed 6-3-24; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-24-0900; Docket No. CDC-2024-
0045]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and
Prevention (CDC), Department of Health
and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease
Control and Prevention (CDC), as part of
its continuing effort to reduce public
burden and maximize the utility of
government information, invites the
general public and other Federal
agencies the opportunity to comment on
a proposed and/or continuing
information collection, as required by
the Paperwork Reduction Act of 1995.
This notice invites comment on a
proposed information collection project
titled Contact Investigation Outcome
Reporting Forms. The project includes
the contact investigation outcome
reporting forms used to obtain data from
State, local, and territorial public health
professionals or conveyance operators
and medical professionals on their
contact tracing efforts to better assess
the risk to individuals who may have
been exposed to a confirmed case of a
communicable disease of public health
concern while traveling to or within the
United States.

DATES: CDC must receive written
comments on or before August 5, 2024.

ADDRESSES: You may submit comments,
identified by Docket No. CDC-2024-
0045 by either of the following methods:

- **Federal eRulemaking Portal:**
www.regulations.gov. Follow the
instructions for submitting comments.
- **Mail:** Jeffrey M. Zirger, Information
Collection Review Office, Centers for
Disease Control and Prevention, 1600
Clifton Road NE, MS H21-8, Atlanta,
Georgia 30329.

Instructions: All submissions received
must include the agency name and
Docket Number. CDC will post, without
change, all relevant comments to
www.regulations.gov.

Please note: Submit all comments
through the Federal eRulemaking portal
(www.regulations.gov) or by U.S. mail to
the address listed above.

FOR FURTHER INFORMATION CONTACT: To
request more information on the
proposed project or to obtain a copy of
the information collection plan and
instruments, contact Jeffrey M. Zirger,
Information Collection Review Office,
Centers for Disease Control and
Prevention, 1600 Clifton Road NE, MS
H21-8, Atlanta, Georgia 30329;
Telephone: 404-639-7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the
Paperwork Reduction Act of 1995 (PRA)
(44 U.S.C. 3501-3520), Federal agencies
must obtain approval from the Office of
Management and Budget (OMB) for each
collection of information they conduct
or sponsor. In addition, the PRA also
requires Federal agencies to provide a
60-day notice in the **Federal Register**
concerning each proposed collection of
information, including each new
proposed collection, each proposed
extension of existing collection of
information, and each reinstatement of
previously approved information
collection before submitting the
collection to the OMB for approval. To
comply with this requirement, we are
publishing this notice of a proposed
data collection as described below.

The OMB is particularly interested in
comments that will help:

1. Evaluate whether the proposed
collection of information is necessary
for the proper performance of the
functions of the agency, including
whether the information will have
practical utility;
2. Evaluate the accuracy of the
agency's estimate of the burden of the
proposed collection of information,
including the validity of the
methodology and assumptions used;
3. Enhance the quality, utility, and
clarity of the information to be
collected;
4. Minimize the burden of the
collection of information on those who
are to respond, including through the
use of appropriate automated,
electronic, mechanical, or other
technological collection techniques or
other forms of information technology,
e.g., permitting electronic submissions
of responses; and
5. Assess information collection costs.

Proposed Project

Contact Investigation Outcome
Reporting Forms (OMB Control No.
0920-0900, Exp. 8/31/2024)—
Revision—National Center for Emerging
and Zoonotic Infectious Diseases

(NCEZID), Centers for Disease Control
and Prevention (CDC).

Background and Brief Description

This proposed information collection
project includes the contact
investigation outcome reporting
information collection tools used by
CDC to better assess the risk to interstate
and arriving international travelers who
may have been exposed to a confirmed
case of a communicable disease of
public health concern while traveling.
Different forms are tailored for different
diseases of public health concern that
are tracked by the Division of Global
Migration Health (DGMH/CDC). The
information will be used to assist and
collaborate with State, local, and
territorial health departments,
conveyance operators, air, maritime,
and land port of entry partners, and
international public health authorities
to identify potential exposures and to
determine the risk of infection, and
whether future public health
interventions are needed.

Methods used to collect the
information are basic surveys of
respondents that record information
about the exposed traveler's location
and activities on air or maritime
conveyances or land border crossing,
other potential exposures, signs/
symptoms that may have occurred after
their potential exposure, prior history of
vaccination or disease, and other
medical conditions that could influence
the risk of infection or severity of
illness.

Due to the COVID-19 pandemic, CDC
modified how cruise ships report
information on cases of influenza-like-
illness. Since December 2023, CDC has
been using a new surveillance system
for cumulative acute respiratory illness
(ARI) reporting (under OMB Control
Number 0920-1335), which includes
cases of influenza, COVID-19, and
respiratory syncytial virus. One form
(the Influenza Outbreak Enhanced Data
Collection Form) is not used routinely
now; however, this form may be used in
limited circumstances in the future. The
burden of outcome reporting forms has
been adjusted based on more recent
numbers, which notably excludes
COVID-19 numbers because we are no
longer requiring contact investigations
for COVID-19 and thus these are lower
than past estimates. This applies
primarily to the General Contact
Investigation Outcome Reporting Form.
Other burden estimates have been
adjusted to reflect current estimates
reflecting 2021-2023 numbers.

CDC requests OMB approval for an
estimated 50 annual burden hours.

There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per response	Average burden per response	Total burden hours
Cruise Ship Physicians/Cargo Ship Managers.	Clinically Active TB Contact Investigation Outcome Reporting Form—Maritime.	17	1	20/60	6
Cruise Ship Physicians/Cargo Ship Managers.	Varicella Investigation Outcome Reporting Form.	74	1	20/60	25
Cruise Ship Physicians	Influenza Outbreak Enhanced Data Collection Form—Maritime.	20	1	20/60	7
State/Local/Territorial public health staff.	General Contact Investigation Outcome Reporting Form—Air.	8	1	5/60	1
State/Local/Territorial public health staff.	TB Contact Investigation Outcome Reporting Form—Air.	51	1	5/60	4
State/Local/Territorial public health staff.	Measles Contact Investigation Outcome Reporting Form—Air.	72	1	5/60	6
State/Local/Territorial public health staff.	Rubella Contact Investigation Outcome Reporting Form—Air.	5	1	5/60	1
State/Local/Territorial public health staff.	General Contact Investigation Outcome Reporting Form—Land.	2	1	5/60	0
Total .....	.....	.....	.....	.....	50

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–12235 Filed 6–3–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–24–1108; Docket No. CDC–2024–0041]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Paul Coverdell National Acute Stroke Program (PCNASP). This data collection is designed to monitor trends in stroke and stroke care, with the ultimate mission of

improving the quality of care for stroke patients in the United States.

DATES: CDC must receive written comments on or before August 5, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2024–0041 by either of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. Follow the instructions for submitting comments.
- **Mail:** Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to www.regulations.gov.

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct

or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Paul Coverdell National Acute Stroke Program (PCNASP) (OMB Control No. 0920–1108, Exp. 9/30/2024)—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), Division for Heart Disease and Stroke Prevention (DHDSP), requests an Extension of a previously approved data collection for a period of three years. The CDC is the primary Federal agency for protecting health and promoting quality of life through the prevention and control of disease, injury, and disability. CDC is committed to programs that reduce the health and economic consequences of the leading causes of death and disability, thereby ensuring a long, productive, healthy life for all people.

Stroke remains a leading cause of serious, long-term disability and is the fifth leading cause of death in the United States after heart disease, cancer, chronic lower respiratory diseases, and accidents. Estimates indicate that approximately 795,000 suffer a first-ever or recurrent stroke each year with more than 145,000 deaths annually. Although there have been significant advances in preventing and treating stroke, the rising prevalence of heart disease, diabetes,

and obesity has increased the relative risk for stroke, especially in African American populations. There is a critical need to improve access to and quality of care for those at highest risk for events and stroke patients among the continuum of care, particularly among high burden populations. Coverdell-funded State programs are in the forefront of developing and implementing system-change efforts to improve stroke systems of care using strategies like linking and using data, using team-based approaches to coordinate stroke care, and providing community resources to reach the general populations and specifically those at highest risk of stroke events, and reduce disparities in access to quality care for high burden populations.

When Congress directed the Centers for Disease Control and Prevention (CDC) to establish the Paul Coverdell National Acute Stroke Program (PCNASP) in 2001, CDC intended to monitor trends in stroke and stroke care, with the ultimate mission of improving the quality of care for stroke patients in the United States. Since 2021, CDC has funded and provided technical assistance to thirteen recipients to develop comprehensive stroke systems of care. A comprehensive system of care improves quality of care by creating seamless transitions for individuals experiencing stroke. In such a system,

pre-hospital providers, in-hospital providers, and early post-hospital providers coordinate patient hand-offs and ensure continuity of care.

While PCNASP has existed since 2001, the goal and mission of the program has evolved with each funding cycle. The 2021–2024 funding cycle is the first such initiative to focus on addressing health equity specifically and understanding efforts to impact stroke outcomes for those at highest risk of stroke. CDC proposes to continue collecting information from thirteen funded PCNASP recipients to gain insight into the effectiveness of implementation approaches, including linking and using data, using team-based approaches to coordinate stroke care, and providing community resources in order to reach the general population and those at highest risk of stroke events, and reduce disparities in access to quality care for high burden populations. The insights to be gained from this continuing data collection will be critical to improving immediate efforts and achieving the goals of spreading and replicating State-level strategies that are proven programmatically and are cost-effective in contributing to a higher quality of care for stroke patients.

CDC requests OMB approval for an estimated 501 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
PCNASP Awardee	Hospital inventory	13	1	8	104
	In-hospital care data	13	4	30/60	26
	Pre-hospital care data	3	4	30/60	6
		10	4	1	40
PCNASP Hospital Partners	Hospital Inventory	650	1	30/60	325
Total					501

Jeffrey M. Zirger,

Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.

[FR Doc. 2024–12237 Filed 6–3–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention**

[30Day–24–24BG]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “National Center for Chronic Disease Prevention

and Health Promotion: Work Plans, Progress Monitoring, and Evaluation Reporting (NCCDPHP WPPMER)” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on December 1, 2023 to obtain comments from the public and affected agencies. CDC received two comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

- (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Enhance the quality, utility, and clarity of the information to be collected;
- (d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and
- (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy

of the information collection plan and instruments, call (404) 639-7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

Proposed Project

NCCDPHP Work Plans, Progress Monitoring, and Evaluation Reporting—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Each year, more than 80% of the Centers for Disease Control and

Prevention (CDC) and the National Center for Chronic Disease Prevention and Health Promotion’s (NCCDPHP) budget is distributed to awardees such as State health departments, universities, and other organizations, primarily through cooperative agreements. The structure of cooperative agreements is such that awardees and CDC project officers, subject matter experts, and technical monitors work together on designing projects intended to improve public health. CDC/ NCCDPHP seeks OMB approval to use Generic Information Collection Request (ICR) templates to collect work plan, monitoring, and/or evaluation information from cooperative agreement awardees.

NCCDPHP does not currently have a single information collection mechanism that encompasses all collection needs for all cooperative agreements. The purpose of this generic ICR is to allow the creation of individualized templates or forms for each phase of each award. OMB approval is requested for three years. The total annualized burden hours are 21,380. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Type of form	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Comprehensive Cancer Control Program Award Recipients	Evaluation Plan	66	1	6
National Breast and Cervical Cancer Early Detection Program Award Recipients.	Work Plan	64	1	6
National Program of Cancer Registries Award Recipients	Evaluation Report	50	1	12
Other CDC/NCCDPHP Award Recipients	Other Reporting Forms ..	2,000	1	10

Jeffrey M. Zirger,
Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.
[FR Doc. 2024-12231 Filed 6-3-24; 8:45 am]
BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND
HUMAN SERVICES

Centers for Disease Control and
Prevention

[60Day-24-1102; Docket No. CDC-2024-0047]

Proposed Data Collection Submitted
for Public Comment and
Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Information Collection for Tuberculosis Data from Panel Physicians. The data collection is designed to collect tuberculosis (TB) data from medical exams of U.S.—bound immigrants and refugees who seek permanent residence in the U.S.

DATES: CDC must receive written comments on or before August 5, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC-2024-0047 by either of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. Follow the instructions for submitting comments.
- **Mail:** Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to www.regulations.gov.

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of

the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329; Telephone: 404-639-7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Information Collection for Tuberculosis Data from Panel Physicians (OMB Control No. 0920–

1102, Exp. 12/31/2024))—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention's (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration Health (DGMH), Immigrant and Refugee Health Branch (IRHB), requests approval for a Revision of an existing information collection. This project pertains to collecting annual reports on certain tuberculosis (TB) data from U.S. panel physicians.

The respondents for this data collection are panel physicians. More than 760 panel physicians from 336 panel sites perform overseas pre-departure medical examinations in accordance with requirements, referred to as Technical Instructions (TI), provided by DGMH's Quality Assessment Program (QAP). The role of QAP is to assist and guide panel physicians in the implementation of the TI; to evaluate the quality of the overseas medical examination for U.S.-bound immigrants and refugees; to assess potential panel physician sites; and to provide recommendations to the U.S. Department of State in matters of immigrant medical screening.

To achieve DGMH's mission, the IRHB works with domestic and international programs to improve the health of U.S.-bound immigrants and refugees to protect the U.S. public by preventing the importation of infectious disease. These goals are accomplished through IRHB's oversight of medical exams required for all U.S.—bound immigrants and refugees who seek permanent residence in the U.S. IRHB is responsible for assisting and training the international panel physicians with the implementation of medical exam TI. The TIs are detailed requirements and national policies regarding the medical screening and treatment of all U.S.-bound immigrants and refugees.

Screening for TB is a particularly important component of the immigration medical exam and allows panel physicians to diagnose active TB disease prior to arrival in the United States. As part of the TI requirements,

panel physicians perform chest x-rays and laboratory tests that aid in the identification of TB infection (Class B1 applicants) and diagnosis of active TB disease (Class A, inadmissible applicants). CDC uses these classifications to report new immigrant and refugee arrivals with a higher risk of developing TB disease to U.S. State and local health departments for further follow-up. Some information that panel physicians collect as part of the medical exam is not reported on the standard Department of State forms (DS-forms), thereby preventing CDC from evaluating TB trends in globally mobile populations and monitoring program effectiveness.

Currently, CDC is requesting this data be sent by panel physicians once per year. The consequences of reducing this frequency would be the loss of monitoring program impact and TB burdens in mobile populations and immigrants and refugees coming to the United States on an annual basis. A prior estimate of 7.5 hours has been reduced to three hours based on the knowledge that most panel physicians have established electronic tracking systems since the last OMB approval period, thereby reducing the amount of time needed to report this data to CDC. CDC has also reduced burden by removing four variables related to pending lab results since the last OMB approval period. The introduction of a web-based data collection tool using REDCap will reduce the burden by improving the efficiency of data reporting and reducing the time to fill out the previous excel spreadsheet and send via email. This new web-based data collection will improve efficiencies by having built in validation rules that will reduce potential data reporting errors. The new web-based data collection tool will be easier for panel physicians to submit data back to CDC by hitting submit rather than emailing a spreadsheet back.

Based on improved IT capacity at most panel sites and an overall reduction in variables collected since the last OMB approval period, the updated annual burden hours is decreased. The annual burden hours requested is 999. There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
International Panel Physicians (All sites).	TB Indicators REDCap web form	333	1	3	999
Total .....	.....	.....	.....	.....	999

Jeffrey M. Zirger,
*Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.*
[FR Doc. 2024–12236 Filed 6–3–24; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND
HUMAN SERVICES

Centers for Disease Control and
Prevention

[60Day–24–1317; Docket No. CDC–2024–
0042]

Proposed Data Collection Submitted
for Public Comment and
Recommendations

AGENCY: Centers for Disease Control and
Prevention (CDC), Department of Health
and Human Services (HHS).
ACTION: Notice with comment period.

SUMMARY: The Centers for Disease
Control and Prevention (CDC), as part of
its continuing effort to reduce public
burden and maximize the utility of
government information, invites the
general public and other federal
agencies the opportunity to comment on
a continuing information collection, as
required by the Paperwork Reduction
Act of 1995. This notice invites
comment on a proposed information
collection project titled National
Healthcare Safety Network (NHSN)
Coronavirus (COVID–19) Surveillance
in Healthcare Facilities. This data
collection is designed to standardize the
data elements collected from across the
country regarding the impact of COVID–
19 on healthcare facilities.

DATES: CDC must receive written
comments on or before August 5, 2024.
ADDRESSES: You may submit comments,
identified by Docket No. CDC–2024–
0042 by either of the following methods:

- *Federal eRulemaking Portal:*
www.regulations.gov. Follow the
instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information
Collection Review Office, Centers for
Disease Control and Prevention, 1600

Clifton Road NE, MS H21–8, Atlanta,
Georgia 30329.
Instructions: All submissions received
must include the agency name and
Docket Number. CDC will post, without
change, all relevant comments to
www.regulations.gov.
Please note: Submit all comments
through the Federal eRulemaking portal
(*www.regulations.gov*) or by U.S. mail to
the address listed above.
FOR FURTHER INFORMATION CONTACT: To
request more information on the
proposed project or to obtain a copy of
the information collection plan and
instruments, contact Jeffrey M. Zirger,
Information Collection Review Office,
Centers for Disease Control and
Prevention, 1600 Clifton Road NE, MS
H21–8, Atlanta, Georgia 30329;
Telephone: 404–639–7570; Email: *omb@
cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the
Paperwork Reduction Act of 1995 (PRA)
(44 U.S.C. 3501–3520), Federal agencies
must obtain approval from the Office of
Management and Budget (OMB) for each
collection of information they conduct
or sponsor. In addition, the PRA also
requires Federal agencies to provide a
60-day notice in the **Federal Register**
concerning each proposed collection of
information, including each new
proposed collection, each proposed
extension of existing collection of
information, and each reinstatement of
previously approved information
collection before submitting the
collection to the OMB for approval. To
comply with this requirement, we are
publishing this notice of a proposed
data collection as described below.

The OMB is particularly interested in
comments that will help:

1. Evaluate whether the proposed
collection of information is necessary
for the proper performance of the
functions of the agency, including
whether the information will have
practical utility;
2. Evaluate the accuracy of the
agency’s estimate of the burden of the
proposed collection of information,
including the validity of the
methodology and assumptions used;

3. Enhance the quality, utility, and
clarity of the information to be
collected;
4. Minimize the burden of the
collection of information on those who
are to respond, including through the
use of appropriate automated,
electronic, mechanical, or other
technological collection techniques or
other forms of information technology,
e.g., permitting electronic submissions
of responses; and
5. Assess information collection costs.

Proposed Project

National Healthcare Safety Network
(NHSN) Coronavirus (COVID–19)
Surveillance in Healthcare Facilities
(OMB Control No. 0920–1317, Exp. 3/
31/2026)—Revision—National Center
for Emerging and Zoonotic Infection
Diseases (NCEZID), Centers for Disease
Control and Prevention (CDC).

Background and Brief Description

The Division of Healthcare Quality
Promotion (DHQP), National Center for
Emerging and Zoonotic Infectious
Diseases (NCEZID), Centers for Disease
Control and Prevention (CDC) collects
data from healthcare facilities in the
National Healthcare Safety Network
(NHSN). NHSN allows facilities to share
data immediately with local, state, and
national partners for impact monitoring,
decision-making, and surveillance
activities. The NHSN COVID–19
Modules (OMB Control No. 0920–1317)
are designed to standardize the data
elements collected across the country
regarding the impact of COVID–19 on
healthcare facilities. In collecting
standardized data, NHSN provides a
vendor-neutral platform and a national
lens into the burden hospitals are
experiencing in a way that is designed
to support the public health response.
NHSN is a platform that exists in nearly
all acute-care hospitals, nursing homes,
and dialysis facilities in the US and can
provide a secure, sturdy infrastructure.
The ICR was previously approved in
May 2024 for 8,864,813 responses and
6,460,072 burden hours. The proposed
changes in this new ICR include
revisions to 12 existing data collection
forms and addition of two new data

collection forms. In this Revision, CDC requests OMB approval for an estimated annual burden of 6,455,846 hours.

There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form No.	Form	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Microbiologist	57.102	COVID-19 Hospital Data Form (excluding Psychiatric and Rehabilitation Facilities).	5,200	365	90/60	2,847,000
Microbiologist	57.103	COVID-19 Hospital Data Form (Psychiatric and Rehabilitation Facilities).	870	365	90/60	476,325
Microbiologist	57.140	National Healthcare Safety Network (NHSN) Registration Form	11,500	1	5/60	958
Microbiologist	57.144	COVID-19 and Respiratory Pathogens Module Long Term Care Facility: Resident Impact and Facility Capacity Pathway.	16,500	52	25/60	357,500
Microbiologist	57.145	COVID-19 Module, Long Term Care Facility: Staff and Personnel Impact form.	11,621	52	5/60	50,358
Microbiologist	57.155	Point of Care Testing Results	6,270	200	10/60	209,000
Microbiologist	57.159	VA Resident COVID-19 Event Form-LTCF	195	25	35/60	2,844
Microbiologist	57.160	VA Staff and Personnel COVID-19 Event Form-LTCF	176	25	30/60	2,200
Microbiologist	57.218	Weekly Respiratory Pathogen and Vaccination Summary for Residents of Long-Term Care Facilities (CSV).	16,500	52	25/60	357,500
Microbiologist	57.219	Healthcare Personnel COVID-19 Vaccination Cumulative Summary (CSV).	32,900	76	45/60	1,875,300
Microbiologist	57.220	Weekly Person Level Respiratory Pathogen and Vaccination for Residents of Long-Term Care Facilities-Long-term Care Facility Component (Manual Entry).	1,600	52	60/60	83,200
Microbiologist	57.220	Weekly Person Level Respiratory Pathogen and Vaccination for Residents of Long-Term Care Facilities-Long-term Care Facility Component (CSV Entry).	1,600	52	40/60	55,467
Microbiologist	57.221	Healthcare Personnel COVID-19 Person Level Vaccination-Long-Term Care Component (Manual).	73	76	60/60	5,548
Microbiologist	57.221	Healthcare Personnel COVID-19 Person Level Vaccination-Long-Term Care Component (CSV).	73	76	40/60	3,699
Microbiologist	57.221	Healthcare Personnel COVID-19 Person Level Vaccination-Healthcare Personnel Safety Component (Manual).	73	76	60/60	5,548
Microbiologist	57.221	Healthcare Personnel COVID-19 Person Level Vaccination-Healthcare Personnel Safety Component (CSV).	73	76	40/60	3,699
Microbiologist	57.509	Weekly Patient COVID-19 Vaccination Cumulative Summary for Dialysis Facilities.	7,700	12	75/60	115,500
Microbiologist	57.510	COVID-19 Module Dialysis Outpatient Facility	150	56	30/60	4,200
Total .....	.....	.....	.....	.....	.....	6,455,846

Jeffrey M. Zirger,

Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.

[FR Doc. 2024-12238 Filed 6-3-24; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-24-24FZ; Docket No. CDC-2024-0048]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of

government information, invites the general public and other Federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Annual Progress Reports for Injury Control Research Centers (ICRC). ICRCs focus on research, training, and outreach for issues of local and national importance, including the prevention of adverse childhood experiences, child abuse and neglect, drowning, drug overdose, intimate partner violence, older adult falls, sexual violence, suicide, and traumatic brain injuries, as well as the promotion of transportation safety.

DATES: CDC must receive written comments on or before August 5, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC-2024-0048 by either of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to www.regulations.gov.

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329; Telephone: 404-639-7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), Federal agencies

must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Annual Progress Reports for Injury Control Research Centers (ICRC)—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In 1987, the Centers for Disease Control and Prevention (CDC) and the National Center for Injury Prevention and Control (NCIPC) began funding Injury Control Research Centers (ICRCs) at academic research institutions throughout the United States. ICRCs focus on three core functions—research, training, and outreach—for issues of local and national importance, including the prevention of adverse childhood experiences; child abuse and neglect; drowning; drug overdose; intimate partner violence; older adult falls; sexual violence; suicide; and traumatic brain injuries, and the promotion of transportation safety. ICRCs foster multidisciplinary strategies for addressing these complex problems and disseminating research findings. In addition to conducting cutting-edge, multidisciplinary research, ICRCs train and develop the current and next generation of researchers and public health professionals to help ensure that there is an adequate supply of qualified practitioners and researchers for advancing prevention research, addressing new problems, and reaching new populations across the nation. Finally, ICRCs work with States and communities to translate research findings into action. ICRCs provide partner organizations with technical assistance on programs, public health infrastructure, and the integration of resources at the local, State, and national levels. Areas of emphasis within each ICRC are determined by the expertise of the faculty and the public health needs and opportunities identified through the ICRC’s outreach activities. This collaborative approach is a vital component in the success of efforts to make an impact on population-level reduction in injury-related harm.

ICRCs form a national network of expertise and innovation in injury

prevention and control. ICRC grants are typically funded in five-year funding cycles. The Centers for Disease Control and Prevention (CDC) requests OMB approval to electronically collect annual progress report (APR) information and Success Stories from the 11 currently funded ICRCs. Grantees will report progress and activity information to CDC on an annual schedule using a web-based CAMP. The information that will be collected will provide crucial data for program performance monitoring and will improve CDC’s ability to respond in a timely manner to requests for information about the program from the Department of Health and Human Services (HHS), the White House, Congress, and other sources. The information that will be collected will also strengthen CDC’s ability to monitor grantee progress towards stated grant research, training, and outreach objectives, provide data-driven technical assistance, and disseminate Success Stories about what’s working to reduce unintentional and intentional injuries. This data collection will improve and innovate through evaluation, research, and quality improvement; investigate, diagnose, and address health hazards and root causes; communicate effectively to inform and educate; strengthen, support, and mobilize communities and partnerships; and create, champion, and implement policies, plans. CDC ICRC grantees perform all of these activities, and the systematic collection of data, annually, is the best way for CDC to understand this work. This APR information collection will enable grantees to submit accurate, reliable, and timely activity and performance data to the CDC.

CDC requests OMB approval for an estimated 183 annual burden hours. There is no cost to participants other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Injury Research Center (ICRC) Grantees.	Injury Control Research Indicators Data Collection.	11	1	8	88
	ICRC Publication Table	11	1	8	88
	Success Stories Template	11	1	1	7
Total .....	.....	.....	.....	.....	183

Jeffrey M. Zirger,

Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.

[FR Doc. 2024-12233 Filed 6-3-24; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-24-0572; Docket No. CDC-2024-
0044]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and
Prevention (CDC), Department of Health
and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease
Control and Prevention (CDC), as part of
its continuing effort to reduce public
burden and maximize the utility of
government information, invites the
general public and other Federal
agencies the opportunity to comment on
a continuing information collection, as
required by the Paperwork Reduction
Act of 1995. This notice invites
comment on a proposed information
collection project titled Health Message
Testing System (HMTS). The HMTS is
a Generic information collection that
enables programs across CDC to test
proposed health messages on a target
audience before these messages are
disseminated to the public.

DATES: CDC must receive written
comments on or before August 5, 2024.

ADDRESSES: You may submit comments,
identified by Docket No. CDC-2024-
0044 by any of the following methods:

- **Federal eRulemaking Portal:**
www.regulations.gov. Follow the
instructions for submitting comments.
- **Mail:** Jeffrey M. Zirger, Information
Collection Review Office, Centers for
Disease Control and Prevention, 1600
Clifton Road NE, MS H21-8, Atlanta,
Georgia 30329.

Instructions: All submissions received
must include the agency name and
Docket Number. CDC will post, without
change, all relevant comments to
www.regulations.gov.

Please note: Submit all comments
through the Federal eRulemaking portal
(www.regulations.gov) or by U.S. mail to
the address listed above.

FOR FURTHER INFORMATION CONTACT: To
request more information on the
proposed project or to obtain a copy of

the information collection plan and
instruments, contact Jeffrey M. Zirger,
Information Collection Review Office,
Centers for Disease Control and
Prevention, 1600 Clifton Road NE, MS
H21-8, Atlanta, Georgia 30329;
Telephone: 404-639-7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the
Paperwork Reduction Act of 1995 (PRA)
(44 U.S.C. 3501-3520), Federal agencies
must obtain approval from the Office of
Management and Budget (OMB) for each
collection of information they conduct
or sponsor. In addition, the PRA also
requires Federal agencies to provide a
60-day notice in the **Federal Register**
concerning each proposed collection of
information, including each new
proposed collection, each proposed
extension of existing collection of
information, and each reinstatement of
previously approved information
collection before submitting the
collection to the OMB for approval. To
comply with this requirement, we are
publishing this notice of a proposed
data collection as described below.

The OMB is particularly interested in
comments that will help:

1. Evaluate whether the proposed
collection of information is necessary
for the proper performance of the
functions of the agency, including
whether the information will have
practical utility;
2. Evaluate the accuracy of the
agency's estimate of the burden of the
proposed collection of information,
including the validity of the
methodology and assumptions used;
3. Enhance the quality, utility, and
clarity of the information to be
collected;
4. Minimize the burden of the
collection of information on those who
are to respond, including through the
use of appropriate automated,
electronic, mechanical, or other
technological collection techniques or
other forms of information technology,
e.g., permitting electronic submissions
of responses; and
5. Assess information collection costs.

Proposed Project

Health Message Testing System
(HMTS) (OMB Control No. 0920-0572,
Exp. 10/31/2024)—Extension—Office of
Communication (OC), Centers for
Disease Control and Prevention (CDC).

Background and Brief Description

Before CDC disseminates a health
message to the public, the message
always undergoes scientific review.
However, even though the message is
based on sound scientific content, there
is no guarantee that the public will

understand a health message or that the
message will move people to take
recommended action. Communication
theorists and researchers agree that for
health messages to be as clear and
influential as possible, target audience
members or representatives must be
involved in developing the messages
and provisional versions of the
messages must be tested with members
of the target audience. Increasingly there
are circumstances when CDC must
move swiftly to protect life, prevent
disease, or calm public anxiety. Health
message testing is even more important
in these instances, because of the
critical nature of the information need.

In the interest of timely health
message dissemination, many programs
forgo the important step of testing
messages on dimensions such as clarity,
salience, appeal, and persuasiveness
(i.e., the ability to influence behavioral
intention). Skipping this step avoids the
delay involved in the standard OMB
review process, but at a high potential
cost. Untested messages can waste
communication resources and
opportunities because the messages can
be perceived as unclear or irrelevant.
Untested messages can also have
unintended consequences, such as
jeopardizing the credibility of Federal
health officials.

The Health Message Testing System
(HMTS) is a Generic information
collection, that enables programs across
CDC to collect the information they
require in a timely manner to:

- Ensure quality and prevent waste in
the dissemination of health information
by CDC to the public.
- Refine message concepts and to test
draft materials for clarity, salience,
appeal, and persuasiveness to target
audiences.
- Guide the action of health
communication officials who are
responding to health emergencies,
Congressionally-mandated campaigns
with short timeframes, media-generated
public concern, time-limited
communication opportunities, trends,
and the need to refresh materials or
dissemination strategies in an ongoing
campaign.

Each testing instrument will be based
on specific health issues or topics.
Although it is not possible to develop
one instrument for use in all instances,
the same kinds of questions are asked in
most message testing. This package
includes generic questions and formats
that can be used to develop health
message testing data collection
instruments. These include a list of
screening questions, comprised of
demographic and introductory
questions, along with other questions

that can be used to create a mix of relevant questions for each proposed message testing data collection method. However, programs may request to use additional questions if needed. Message testing questions will focus on issues such as comprehension, impressions, personal relevance, content and wording, efficacy of response, channels, and spokesperson/sponsor. Such information will enable message developers to enhance the effectiveness of messages for intended audiences. Data collection methods proposed for HMTS include intercept interviews, telephone interviews, focus groups, online surveys, and cognitive interviews. In almost all instances, data will be collected by outside organizations under contract with CDC.

For many years, CDC programs have used HMTS to test and refine message concepts and test draft materials for clarity, salience, appeal, and persuasiveness to target audiences. Having this Generic Clearance available has enabled them to test their information and get critical health information out to the public quickly. Over the last three years, more than 22 messages have been tested using this clearance. CDC's Division of Tuberculosis Elimination was approved to conduct message testing for their Latent Tuberculosis Infection (LTBI)

Awareness Campaign within target audiences—non-US-born Vietnamese and Filipino persons and the healthcare professionals (primary care physicians, nurse practitioners, and physician assistants) that serve them. Assessing the immediate effects of campaign materials provides helpful insights that can be used to inform adjustments of campaign materials for intended audiences.

CDC's Division of Nutrition, Physical Activity, and Obesity (DNPAO) is tasked with leading our nation's efforts to prevent chronic diseases by promoting good nutrition, regular physical activity, and a healthy weight. One of the key ways DNPAO does this is by providing State and community partners with practical tools to promote healthy lifestyles such as the SCHMC communication resources. It is imperative that this ad testing be conducted so that CDC/DNPAO can best support grantees and local partners by providing timely information about how specific ads resonate with key audiences. The insights gained from the ad testing also provided DNPAO with timely information to inform development of additional ads and communication materials that they will resonate with audiences and lead to intended actions/behavior changes related to increasing physical activity,

reducing sugary drink consumption, and improving infant and toddler nutrition.

The National Center for Injury Prevention and Control (NCIPC) collected data to assess older adults' perceptions of products developed as part of the expansion phase of CDC's Still Going Strong Campaign. Digital products were developed as part of this effort to expand the campaign to address social connectedness and isolation. The messages conveyed the importance of social connectedness to health to maintaining a high quality of life as we age. Participants learned about how social connectedness as well as physical and mental health are interconnected and critical to the well-being of older adults.

Over 17,307 respondents were queried and over 5,400 burden hours used during this time period. Because the availability of this data collection has been so critical to programs in disseminating their materials and information to the public in a timely manner, The Office of Communications is requesting a three-year Extension of this information collection. CDC requests OMB approval for an estimated 2,470 annual burden hours. There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Public Health Professionals, Health Care Providers, State and Local Public Health Officials, Emergency Responders, General Public.	Moderator's Guides, Eligibility Screeners, Interview Guides, Opinion Surveys, Consent Forms.	18,525	1	8/60	2,470
Total .....	.....	.....	.....	.....	2,470

Jeffrey M. Zirger,
*Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.*
[FR Doc. 2024–12234 Filed 6–3–24; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–R–142 and CMS–10379]

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 August 5, 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–R–142 Examination and Treatment for Emergency Medical Conditions and Women in Labor (EMTALA)

CMS–10379 Rate Increase Disclosure and Review Requirements (45 CFR part 154)

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:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Examination and Treatment for Emergency Medical Conditions and Women in Labor (EMTALA); *Use:* Pursuant to section 1866(a)(1)(I) of the Act, Congress has mandated that the Secretary enforce section 1867 of the Act. Under section 1867, effective August 1, 1986, hospitals may continue to participate in the Medicare program only if they are not out of compliance with its provisions. Continued Paperwork Reduction Act (PRA) approval of the regulation sections cited below will promote uniform and thorough application of the section 1866 and 1867 requirements. They will also provide information when requested by Congress and other interested parties regarding the implementation of the statute. During 2004 through 2018, approximately 8,146 complaints were received, approximately 7,770 of those complaints were investigated, and approximately 3,567 EMTALA deficiencies were found. During Federal fiscal years 2001 through 2005 the Inspector General’s Office imposed civil monetary penalties on hospitals in 105 cases, for a total of \$2,645,750 in penalties. An audit completed by the Office of Inspector General (OIG) (entitled, Office of Inspector General: Implementation and Enforcement of the Examination and Treatment for Emergency Medical Conditions and Women in Labor by the Health Care Financing Administration, April 1995, A–06–93–00087) determined that CMS’s implementation of the Act was generally effective, but Regional Offices (RO) were not consistent with conducting timely investigations, sending acknowledgments to complaints, ensuring that investigations were thorough, or ensuring that violations were referred to the OIG in accordance with CMS policy for possible civil monetary penalty action. OIG further concluded that without proper

compliance, there is an increased risk that individuals with emergency medical conditions will not receive the treatment needed to stabilize their condition, which may place them in greater risk of death. *Form Number:* CMS–R–142 (OMB control number: 0938–0667); *Frequency:* Occasionally; *Affected Public:* Private Sector; Business or other for-profits, Not-for-profit institutions; *Number of Respondents:* 5,166; *Total Annual Responses:* 5,166; *Total Annual Hours:* 5,166. (For policy questions regarding this collection contact Renate Dombrowski at (410) 786–4645.)

2. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Rate Increase Disclosure and Review Requirements (45 CFR part 154); *Use:* 45 CFR part 154 implements the annual review of proposed increases in premiums for health insurance coverage called for by section 2794 of the Public Health Service Act (PHS Act). The regulation established a rate review program to ensure that all rate increases that meet or exceed an established threshold are reviewed by a state or the Centers for Medicare & Medicaid Services (CMS) to determine whether the proposed rate increases are unreasonable. Each state or CMS also reviews all proposed rate changes from issuers offering non-grandfathered health insurance coverage in the individual and/or small group markets for compliance with the Federal rating rules at sections 2701, 2705, 2717(c)(4), and 2753 of the PHS Act, section 1312(c) of the Affordable Care Act, and 45 CFR 147.102, 147.110, 148.180, and 156.80. Accordingly, issuers offering non-grandfathered health insurance coverage in the individual and/or small group markets are required to submit Rate Filing Justifications to CMS. 45 CFR 154.103 exempts grandfathered health plan coverage as defined in 45 CFR 147.140, excepted benefits as described in section 2791(c) of the PHS Act and student health insurance coverage, as defined in § 147.145, from Federal rate review requirements.

The Rate Filing Justification consists of three parts. All issuers must continue to submit a Uniform Rate Review Template (URRT) (Part I of the Rate Filing Justification) for all single risk pool plans. 45 CFR 154.200(a)(1) establishes a 15 percent Federal default threshold for reasonableness review. Issuers that submit a rate filing that includes a plan with a proposed rate increase that meets or exceeds the threshold must include a written description justifying the rate increase,

also known as the consumer justification narrative (Part II of the Rate Filing Justification). We note that the threshold set by CMS constitutes a minimum standard, and most states currently employ stricter rate review standards and may continue to do so. Issuers offering a QHP or any single risk pool submission containing a rate increase of any size must continue to submit an actuarial memorandum (Part III of the Rate Filing Justification). The actuarial memorandum is required whenever a state with an Effective Rate Review Program, as determined in accordance with 45 CFR 154.301, requires it to be submitted, and for all plans in states that do not have an Effective Rate Review Program. *Form Number*: CMS-10379 (OMB control number: 0938-1141); *Frequency*: Annually; *Affected Public*: Private Sector; Businesses or other for-profits, Not-for-profit institutions, State, Local, or Tribal Governments; *Number of Respondents*: 620; *Number of Responses*: 2,551; *Total Annual Hours*: 46,102. (For policy questions regarding this collection, contact Keith McNamara at 410-786-7010.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024-12157 Filed 6-3-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Findings of research misconduct have been made against Shaker Mousa, Ph.D., M.B.A., FACC, FACB (Respondent), who was a Professor, Chairman, and Executive Vice President of the Pharmaceutical Research Institute, Albany College of Pharmacy and Health Sciences (ACPHS). Respondent engaged in research misconduct in research supported by U.S. Public Health Service (PHS) funds, specifically National Cancer Institute (NCI), National Institutes of Health (NIH), grant R21 CA135245 and National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), NIH, grant R01 DK052798. The administrative actions, including supervision for a period of four (4) years, were implemented

beginning on May 15, 2024, and are detailed below.

FOR FURTHER INFORMATION CONTACT:

Sheila Garrity, JD, MPH, MBA, Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 240, Rockville, MD 20852, (240) 453-8200.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Shaker Mousa, Ph.D., M.B.A., FACC, FACB, Albany College of Pharmacy and Health Sciences (ACPHS): Based on the report of an investigation conducted by ACPHS and additional analysis conducted by ORI in its oversight review, ORI found that Dr. Shaker Mousa (Respondent), former Professor, Chairman, and Executive Vice President of the Pharmaceutical Research Institute, ACPHS, engaged in research misconduct in research supported by PHS funds, specifically NCI, NIH, grant R21 CA135245 and NIDDK, NIH, grant R01 DK052798. ORI found that Respondent engaged in research misconduct by intentionally, knowingly, or recklessly falsifying and/or fabricating chick chorioallantoic membrane (CAM) assays used to determine angiogenesis activities of small molecules in:

- Tetraiodothyroacetic acid-conjugated PLGA nanoparticles: a nanomedicine approach to treat drug-resistant breast cancer. *Nanomedicine (Lond)* 2013 Dec;8(12):1943-54. doi: 10.2217/nnm.12.200 (hereafter referred to as “*Nanomedicine (Lond)* 2013”).
- The proangiogenic action of thyroid hormone analogue GC-1 is initiated at an integrin. *J. Cardiovasc. Pharmacol.* 2005 Sep;46(3):356-60. doi: 10.1097/01.fjc.0000175438.94906.a0 (hereafter referred to as “*J. Cardiovasc. Pharmacol.* 2005”). Retraction in: *J. Cardiovasc. Pharmacol.* 2023 Sep 8. doi: 10.1097/FJC.0000000000001471.

Specifically, ORI found that Respondent intentionally, knowingly, or recklessly falsified and/or fabricated:

- seven (7) micrograph panels in *Nanomedicine (Lond)* 2013 and *J. Cardiovasc. Pharmacol.* 2005 by reusing CAM images from the same source and falsely relabeling them to report pro-angiogenic factors as alternate pro-angiogenic factors, anti-angiogenic drug treatments as alternate anti-angiogenic drug treatments, and control treatments and anti-angiogenic treatments as the same treatment in:

—FGF2 images in Figure 3A of *Nanomedicine (Lond)* 2013 and in Figure 2A of *J. Cardiovasc. Pharmacol.* 2005 and GC-1 image in

Figure 4A of *J. Cardiovasc. Pharmacol.* 2005

—FGF2 + T-PLGA-NPs image in Figure 3A in *Nanomedicine (Lond)* 2013 and GC-1 + XT199 image in Figure 4A of *J. Cardiovasc. Pharmacol.* 2005

—FGF2 + tetrac in Figure 3A of *Nanomedicine (Lond)* 2013 and PBS Control image in Figure 4A of *J. Cardiovasc. Pharmacol.* 2005

Respondent entered into a Voluntary Settlement Agreement (Agreement) and voluntarily agreed to the following:

(1) Respondent will have his research supervised for a period of four (4) years beginning on May 15, 2024 (the “Supervision Period”). Prior to the submission of an application for PHS support for a research project on which Respondent’s participation is proposed and prior to Respondent’s participation in any capacity in PHS-supported research, Respondent will submit a plan for supervision of Respondent’s duties to ORI for approval. The supervision plan must be designed to ensure the integrity of Respondent’s research. Respondent will not participate in any PHS-supported research until such a supervision plan is approved by ORI. Respondent will comply with the agreed-upon supervision plan.

(2) The requirements for Respondent’s supervision plan are as follows:

i. A committee of 2-3 senior faculty members at the institution who are familiar with Respondent’s field of research, but not including Respondent’s supervisor or collaborators, will provide oversight and guidance for a period of four (4) years from the effective date of the Agreement. The committee will review primary data from Respondent’s laboratory on a quarterly basis and submit a report to ORI at six (6) month intervals setting forth the committee meeting dates and Respondent’s compliance with appropriate research standards and confirming the integrity of Respondent’s research.

ii. The committee will conduct an advance review of each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved. The review will include a discussion with Respondent of the primary data represented in those documents and will include a certification to ORI that the data presented in the proposed application, report, manuscript, or abstract are supported by the research record.

(3) During the Supervision Period, Respondent will ensure that any institution employing him submits, in conjunction with each application for

PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract.

(4) If no supervision plan is provided to ORI, Respondent will provide certification to ORI at the conclusion of the Supervision Period that his participation was not proposed on a research project for which an application for PHS support was submitted and that he has not participated in any capacity in PHS-supported research.

(5) During the Supervision Period, Respondent will exclude himself voluntarily from serving in any advisory or consultant capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee.

(6) Respondent will request that the following paper be corrected or retracted:

- *Nanomedicine (Lond)* 2013 Dec;8(12):1943–54. doi: 10.2217/nmm.12.200

Respondent will copy ORI and the Research Integrity Officer at ACPHS on the correspondence with the journal.

Dated: May 29, 2024.

Sheila Garrity,

Director, Office of Research Integrity, Office of the Assistant Secretary for Health.

[FR Doc. 2024–12167 Filed 6–3–24; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; 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: Office of Research Infrastructure Programs Special Emphasis Panel; (ZOD1), STOD Member Conflict.

Date: June 25, 2024.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jonathan Ivins, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Rockledge II, 6701 Rockledge Drive, MSC 7806, Bethesda, MD 20892, (301) 594–1245, ivinsj@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: May 30, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–12209 Filed 6–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Sex Differences.

Date: July 9, 2024.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, 5601 Fishers Lane, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Dario Dieguez, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institutes of Health, National Institute on Aging, 5601 Fishers Lane, Rockville, MD 20852, (301) 827–3101, dario.dieguez@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 29, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–12137 Filed 6–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: June 27, 2024.

Time: 11:00 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F58, Rockville, MD 20852 (Video Assisted Meeting).

Contact Person: Mario Cerritelli, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F58, Rockville, MD 20852, 240–669–5199, cerritem@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 29, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–12133 Filed 6–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Sex Differences in AD.

Date: July 9, 2024.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, 5601 Fishers Lane, Rockville, MD 20852. (Virtual Meeting).

Contact Person: Dario Dieguez, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institutes of Health, National Institute on Aging, 5601 Fishers Lane, Rockville, MD 20852, (301) 827–3101, dario.dieguez@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 29, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–12134 Filed 6–3–24; 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 NST–2 SEP.

Date: June 25, 2024.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: DeAnna Lynn Adkins, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/HHS NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–9223, deanna.adkins@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: May 29, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–12136 Filed 6–3–24; 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 the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: June 18, 2024.

Time: 11:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 6001 Executive Boulevard, Room 8351, Bethesda, MD 20892, (301) 451–6339, kellya2@nih.gov. (Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 30, 2024.

Patricia B. Hansberger,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–12176 Filed 6–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Federally Funded Research Development Center Contract Administration System (FCAS) Vendor Portal National Cancer Institute (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health, National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project,

contact: Scott Keasey, 428 Miller Drive, Suite 59 9742, Rockville, MD 20880 or call non-toll-free number 301-846-1115 or Email your request, including your address to: scott.keasey@nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including

the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Federally Funded Research Development Center Contract Administration System (FCAS) Vendor Portal National Cancer Institute (NCI), 0925-0773, Expiration Date 10/31/2024, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Cancer Institute (NCI) Office of Acquisitions (OA) located within the Office of the Director (OD) in the Office of Management (OM) at the National Cancer Institute (NCI), awards and administers contracts and simplified acquisitions in support of the Institute's mission to prevent, diagnose and treat cancer. During the acquisition process, the OA ensures that customer service is paramount, and communications are open and continuous. Currently requests and correspondence are sent to and received from vendors through email with the exception of the FFRDC Contractor who submits through the

FCAS Vendor Portal which is in production. To streamline processes, increase transparency and gain efficiencies, the OA the FCAS vendor portal to replace processes that are handled through email FCAS Vendor Portal Users to individual OA recipients. The FCAS Vendor Portal will serve as a one-stop shop for transmission of requests, reports, deliverables and other correspondence due on numerous research and development, in support of R&D contracts as well as those contract vehicles awarded using various Federal Acquisition Procedures including but not limited to FAR Part 8, Required Sources of Supplies and Services, FAR Part 13, Simplified Acquisition Procedures, and FAR Part 12, Acquisition of Commercial Items. These reports and deliverables cover a wide variety of topics in the areas of cancer research including prevention, detection, diagnosis, and control.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 77.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Survey	Individuals	1	1	6/60	0
Registration	Corporations	1	1	6/60	0
Data Field Information	Individuals	72	63	1/60	76
Add/Edit new Vendor	Corporations	6	1	6/60	1
Totals .....	.....	80	4,544	.....	77

Dated: May 30, 2024.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2024-12203 Filed 6-3-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences Special Emphasis Panel; Review of Mosaic K99 applications.

Date: July 10, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, Bethesda, Maryland 20892 (Virtual Meeting).

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12, Bethesda, Maryland 20892, 301-435-0807, sliselw@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program No. 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 30, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-12210 Filed 6-3-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: June 28, 2024.

Time: 11:00 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F58, Rockville, MD 20852 (Video Assisted Meeting).

Contact Person: Mario Cerritelli, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F58, Rockville, MD 20852, 240-669-5199, cerritem@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 29, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-12135 Filed 6-3-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 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: Oncology 1-Basic Translational Integrated Review Group; Basic Mechanisms of Cancer Health Disparities Study Section.

Date: June 25–26, 2024.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (In-Person and Virtual Meeting).

Contact Person: Sulagna Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (612) 309-2479, sulagna.banerjee@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; HEAL Initiative: Discovery and Validation of Novel Targets for Pain.

Date: June 25, 2024.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anne-Sophie Marie Lucie Wattiez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-4642, anne-sophie.wattiez@nih.gov.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Drug and Biologic Disposition and Toxicity Study Section.

Date: June 26, 2024.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Stacey Nicole Williams, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867-5309, stacey.williams@nih.gov.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Integrative Myocardial Physiology/Pathophysiology B Study Section.

Date: June 26–27, 2024.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Alexandria Old Town, 1900 Diagonal Road, Alexandria, VA 22314 (In-Person Meeting).

Contact Person: Kirk E Dineley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 806E, Bethesda, MD 20892, (301) 867-5309, dineleyke@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Macromolecular Biophysics and Biochemistry.

Date: June 26, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nuria E Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451-1323, assamunu@csr.nih.gov.

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Biochemical and Cellular Oncogenesis Study Section.

Date: June 26–27, 2024.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jian Cao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-5902, caojn@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrinology, Metabolism and Reproduction.

Date: June 26–27, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301-435-1154, dianne.hardy@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Radiation Therapy, Radiation Biology and Nanoparticle Based Therapeutics.

Date: June 26–27, 2024.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jennifer Ann Sanders, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496-3553, jennifer.sanders@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 29, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–12138 Filed 6–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Program Project.

Date: July 11, 2024.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, 5601 Fishers Lane, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Dario Dieguez, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institutes of Health, National Institute on Aging, 5601 Fishers Lane, Rockville, MD 20852, (301) 827–3101, dario.dieguez@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 30, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–12211 Filed 6–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–0361.

Comments are invited on: (a) whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Project: Medications for the Treatment of Opioid Use Disorder—42 CFR Part 8 (OMB No. 0930–0206) and Opioid Treatment Programs (OTPs)—Extension

42 CFR part 8 establishes a certification program managed by SAMHSA's Center for Substance Abuse Treatment (CSAT). The regulation requires that opioid treatment programs (OTPs) be certified. "Certification" is the process by which SAMHSA determines that an OTP is qualified to provide opioid use disorder treatment under the federal opioid use disorder treatment standards established by the Secretary of Health and Human Services. To become certified, an OTP must be accredited by a SAMHSA-approved accreditation body. The

regulation also provides standards for such services as individualized treatment planning, medical care, and assessment of patient outcomes. This submission seeks continued approval of the information collection requirements in the regulation and of the forms used in implementing the regulation.

SAMHSA currently has approval for the *Application for Certification to Use Medications for the Treatment of Opioid Use Disorder in a Treatment Program Under 42 CFR 8.11* (Form SMA–162); the *Application for Approval as Accreditation Body Under 42 CFR 8.3(b)* (Form SMA–163); and the *Exception Request and Record of Justification Under 42 CFR 8.12* (Form SMA–168), which may be used on a voluntary basis by OTP practitioners when there is a patient care situation in which the OTP practitioner must make a treatment decision that falls outside of the required standards delineated in the regulation. Form SMA–168 is a simplified, standardized form to facilitate the documentation, request, and approval process for exceptions.

SAMHSA believes that the recordkeeping requirements in the regulation are customary and usual practices within the medical and rehabilitative communities and has not calculated a response burden for them. The recordkeeping requirements set forth in 42 CFR 8.4, 8.11 and 8.12 include maintenance of the following: 5-year retention by accreditation bodies of certain records pertaining to accreditation; documentation by an OTP of the following: a patient's medical examination when admitted to treatment, a patient's medical history, a care plan, any prenatal support provided the patient if applicable, the medical rationale for initial starting doses above 50mg, the medical rationale for a patient's dosage schedule, and care decisions made as a result of follow-up medical examinations.

The tables that follow summarize the annual reporting burden associated with the regulation, including burden associated with the forms. There are minor changes to these forms to improve data collection, remove unnecessary questions, and align terms with the final 42 CFR part 8 rule released February 2, 2024.

Form	Number of respondents	Responses/ respondent	Total responses	Hours/ response	Total hours
Estimated Annual Reporting Requirement Burden for Accreditation Bodies					
SMA-163	54	26.055	1,407	0.28	394
Estimated Annual Reporting Requirement Burden for Opioid Treatment Programs					
SMA-162	751.33	17.976	13,506	0.08	1,081
SMA-168	1,302.67	17.977	23,418	0.08	1,873
Subtotal	2,054	17.977	36,925	0.08	2,954
Total			38,332		3,348

Send comments to SAMHSA Reports Clearance Officer, 5600 Fisher Lane, Room 15E45, Rockville, MD 20852 *OR* email a copy to *samhsapra@samhsa.hhs.gov*. Written comments should be received by August 5, 2024.

Alicia Broadus,
Public Health Advisor.
[FR Doc. 2024-12197 Filed 6-3-24; 8:45 am]
BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Automated Commercial Environment (ACE) Export Manifest for Air Cargo Test: Renewal of Test

AGENCY: U.S. Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice announces that CBP is renewing U.S. Customs and Border Protection’s (CBP’s) Automated Commercial Environment (ACE) Export Manifest for Air Cargo Test, a National Customs Automation Program (NCAP) test concerning ACE export manifest capability.

DATES: The voluntary pilot initially began on August 10, 2015, was modified and extended on August 14, 2017, and was further extended on December 22, 2021. This renewal is effective June 4, 2024. The extended test will run for an additional two years from the date of publication of this notice in the **Federal Register**.

ADDRESSES: Applications to participate in the ACE Export Manifest for Air Cargo Test must be submitted via email to CBP Export Manifest at *cbpexportmanifest@cbp.dhs.gov*. In the subject line of the email, please use “ACE Export Manifest for Air Cargo Test Application”. Applications will be accepted at any time during the test period. Written comments concerning

program, policy, and technical issues may also be submitted via email to CBP Export Manifest at *cbpexportmanifest@cbp.dhs.gov*. In the subject line of the email, please use “Comment on ACE Export Manifest for Air Cargo Test”. Comments may be submitted at any time during the test period.

FOR FURTHER INFORMATION CONTACT: Thomas J. Pagano, Branch Chief, or David Garcia, Program Manager, Outbound Enforcement and Policy Branch, Office of Field Operations, U.S. Customs and Border Protection, via email at *cbpexportmanifest@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Automated Commercial Environment (ACE) Export Manifest for Air Cargo Test is a voluntary test in which participants agree to submit export manifest data to U.S. Customs and Border Protection (CBP) electronically, at least four hours prior to loading of the cargo onto the aircraft in preparation for departure from the United States. The ACE Export Manifest for Air Cargo Test is authorized under § 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)), which provides for the testing of National Customs Automation Program (NCAP) programs or procedures.

The ACE Export Manifest for Air Cargo Test examines the functionality regarding the filing of export manifest data for air cargo electronically in ACE. The ACE system creates a single automated export processing platform for certain export manifest, commodity, licensing, export control, and export targeting transactions. This will reduce costs for CBP, partner government agencies, and the trade community, as well as improve facilitation of export shipments through the supply chain.

The ACE Export Manifest for Air Cargo Test will also assess the feasibility of requiring the manifest information to be filed electronically in ACE within a specified time before the cargo is loaded

on the aircraft. This capability will enable CBP to calculate the risk and effectively identify and inspect shipments prior to loading of cargo to ensure compliance with all U.S. export laws.

CBP announced the procedures and criteria related to participation in the ACE Export Manifest for Air Cargo Test in a notice published in the **Federal Register** on July 10, 2015 (80 FR 39790). This test was originally set to run for approximately two years. On August 14, 2017, CBP extended the test period for one additional year (82 FR 37888). At that time, CBP also modified the original notice, making certain of the data elements optional, and opened the test to accept additional applications for participation from all parties who met the eligibility requirements.

The data elements, unless noted otherwise, are mandatory. Data elements which are “mandatory” must be provided to CBP for every shipment. Data elements which are “conditional” must be provided to CBP only if the particular information pertains to the cargo. Data elements which are “optional” may be provided to CBP but are not required. The data elements are set forth below:

- (1) Exporting Carrier
- (2) Marks of nationality and registration
- (3) Flight number
- (4) Port of lading
- (5) Port of unloading
- (6) Scheduled date of departure
- (7) Consolidator (conditional)
- (8) De-consolidator (conditional)
- (9) Air waybill type (Master, House, Simple or Sub)
- (10) Air waybill number
- (11) Number of pieces and unit of measure (optional)
- (12) Weight (kg./lb.)
- (13) Number of house air waybills (optional)
- (14) Shipper name and address
- (15) Consignee name and address
- (16) Cargo description
- (17) AES Internal Transaction Number (ITN) or AES Exemption Statement/Exception Classification (per shipment)

- (18) Split air waybill indicator (optional)
- (19) Hazmat indicator (Yes/No)
- (20) UN Number (conditional) (If the hazmat indicator is yes, the four-digit UN (United Nations) Number assigned to the hazardous material must be provided.)
- (21) In-bond number (optional)
- (22) Mode of transportation (containerized air cargo or noncontainerized air cargo) (optional).

For further details on the background and procedures and modifications regarding the test, please refer to the July 10, 2015 notice and August 14, 2017 extension and modification.

II. Extension of the ACE Export Manifest for Air Cargo Test Period

CBP will renew the test for another two years to continue further evaluation of the ACE Export Manifest for Air Cargo Test to determine whether electronic submission of the manifest will allow for improvements in capabilities at the departure level. The extended test will now run for two additional years from the date of publication.

III. Applicability of Initial Test Notice

All provisions found in the July 2015 notice, and modifications in the August 2017 extension, remain applicable, subject to the further extension of the time period provided herein.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget (OMB). The collections of information in this NCAP test have been approved by OMB in accordance with the requirements of the Paperwork Reduction Act and assigned OMB control number 1651–0001.

Diane J. Sabatino,

*Acting Executive Assistant Commissioner,
Office of Field Operations, U.S. Customs and
Border Protection.*

[FR Doc. 2024–12166 Filed 6–3–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Certain Upholstered Wood Chairs

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of certain upholstered wood chairs. Based upon the facts presented, CBP has concluded that the components imported into the United States undergo a substantial transformation when made into the upholstered wood chairs.

DATES: The final determination was issued on May 29, 2024. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determinations no later than July 5, 2024.

FOR FURTHER INFORMATION CONTACT: Elif Eroglu, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade, (202) 325–0277.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 29, 2024, CBP issued a final determination concerning the country of origin of certain upholstered wood chairs for purposes of title III of the Trade Agreements Act of 1979. This final determination, HQ H338482, was issued at the request of J Squared Inc., d/b/a University Loft Company, under procedures set forth at 19 CFR part 177, subpart B, which implements title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP concluded that, based upon the facts presented, the imported components are substantially transformed in the United States when made into the subject upholstered wood chairs.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of

publication of such determination in the **Federal Register**.

Alice A. Kipel,
*Executive Director, Regulations and Rulings,
Office of Trade.*

HQ H338482

May 29, 2024

OT:RR:CTF:VS H338482 EE

Category: Origin

Matthew Johnson

J Squared Inc., d/b/a University Loft
Company

2588 Jannetides Blvd.
Greenfield, IN 46140

Re: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. 2511); Subpart B, Part 177, CBP Regulations; Country of Origin of Upholstered Wood Chairs

Dear Mr. Johnson:

This is in response to your request, dated March 28, 2024, for a final determination concerning the country of origin of certain upholstered wood chairs pursuant to Title III of the Trade Agreements Act of 1979 (“TAA”), as amended (19 U.S.C. 2511 *et seq.*), and subpart B of Part 177, U.S. Customs and Border Protection (“CBP”) Regulations (19 CFR 177.21, *et seq.*). Your request, submitted as an electronic ruling request, was forwarded to this office from the National Commodity Specialist Division for response. J Squared Inc., d/b/a University Loft Company (“ULC”), is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and 177.23(a) and is therefore entitled to request this final determination.

Facts

You state that two upholstered wood chairs, item nos. G32PLY2 and G32PLY1, are manufactured at your facility in Greenfield, IN, utilizing components from various sources. Item no. G32PLY1 is a solid wood and high-pressure laminate upholstered chair. Its dimensions are: 19⁵/₁₆” wide x 23¹¹/₁₆” deep x 33” high, with a 16” seat height. It features a waterfall-style, legged design and the legs and seat rails are constructed of curved bentwood. It is made of solid hardwood and high-pressure laminate.

Item no. G32PLY2 is a solid wood upholstered chair. Its dimensions are: 19⁵/₁₆” wide x 22¹¹/₁₆” deep x 33” high with a 16” seat height. It features a waterfall-style, 2-position design and the legs and seat rails are constructed of curved bentwood.

You state that for both chairs, the construction allows for replacement of individual components. The production of the upholstered wood chairs involves the following steps:

Step #1

Fabric from the United States is cut to size for the seats with a cutting machine. Plastic welt cord from the United States is cut to size and wrapped around the inner upholstered chair back. The cut fabric for the back and the welt cord are sewn together with a sewing machine.

Step #2

Sheets of dust covers from the United States are cut to the specific size of the bottom seat with the cutting machine.

Step #3

Precut foam from the United States for the seats and backs are trimmed around the edges of the seat for even application of the fabric.

For the seats, the foam is combined with the wooden seat component, the cut seat fabric, and the dust cover. The fabric and dust cover are stapled by hand over the foam and onto the wooden seat.

For the inner/outer backs, the foam is combined with the wooden inner seat back, the back cut fabric, and the plastic welt cord that have already been sewn together. The fabric/welt cord is stapled by hand over the foam and onto the inner seat back. A finished non-upholstered outer seat back is then attached.

Step #4

Seven wooden components of the base of the chairs, consisting of the left seat rail, right seat rail, left leg, right leg, front crossbar, back crossbar, and bottom crossbar, are combined with hardware that is also purchased in the same kit as the wooden chair components. These include 60mm bolts with Loctite, 40mm bolts with Loctite, 35mm bolts with Loctite, and 10mm x 40mm large wooden dowels. The kit is from China.

Five wooden components (minus the seat rails) are attached using wood glue and dowels. A total of four dowels are used per chair. Next, the chair base is put on a chair base clamp to make sure the base of the chair is square, and all dowels are properly inserted.

Once it is confirmed that the base is straight, the remaining two wood components are added. The left and right seat rails are attached to the base using the 60mm bolts with Loctite. The upholstered seats are attached to the base using four 40mm bolts with Loctite. The upholstered inner backs with a finished outer back are attached to the base using four 35mm bolts with Loctite.

Step #5

The chairs are packaged for shipment using Microfilm rolls to protect seat and back surfaces from touching during shipment. Chairs are then boxed or palletized.

You provided an outline of the manufacturing process of the two chairs and the costed bill of materials.

Issue

Whether the imported components are substantially transformed when assembled into the upholstered wood chairs in the United States.

Law and Analysis

CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government, pursuant to subpart B of Part 177, 19 CFR 177.21–177.31, which implements Title III of the TAA, as amended (19 U.S.C. 2511–2518).

CBP’s authority to issue advisory rulings and final determinations is set forth in 19 U.S.C. 2515(b)(1), which states:

For the purposes of this subchapter, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 2518(4)(B) of this title, *an article is or would be a product of a foreign country or instrumentality designated pursuant to section 2511(b) of this title.*

Emphasis added.

The Secretary of the Treasury’s authority mentioned above, along with other customs revenue functions, are delegated to CBP in the Appendix to 19 CFR part 0—Treasury Department Order No. 100–16, 68 FR 28,322 (May 23, 2003).

The rule of origin set forth under 19 U.S.C. 2518(4)(B) states:

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 CFR 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal

Procurement Regulation (“FAR”). See 19 CFR 177.21. In this regard, CBP recognizes that the FAR restricts the U.S. Government’s purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. See 48 CFR 25.403(c)(1).

The FAR, 48 CFR 25.003, defines “U.S.-made end product” as:

... an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

In order to determine whether a substantial transformation occurs, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item’s components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, CBP considers factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process when determining whether a substantial transformation has occurred. No one factor is determinative.

In *Carlson Furniture Indus. v. United States*, 65 Cust. Ct. 474, Cust. Dec. 4126 (1970), which involved wooden chair parts, the court held that the assembly operations after importation were substantial in nature and more than a simple assembly of parts. The importer assembled, fitted, and glued the wooden parts together, inserted steel pins into the key joints, cut the legs to length and leveled them, and in some instances, upholstered the chairs and fitted the legs with glides and casters. The assembly operations resulted in the creation of a new article of commerce.

In Headquarters Ruling Letter (“HQ”) H083693, dated March 23, 2010, CBP held that a wood chest assembled in the United States was a product of the United States for purposes of U.S. Government procurement. The wood chest was assembled from over 20 U.S. and foreign components in a 20-step process which took approximately 41 minutes. CBP held that the components that were used to manufacture the wood chest, when combined with a U.S.-origin laminate top, were substantially transformed as a result of the assembly operations performed in the United States.

In the instant case, as previously noted, the components in the kit from China consist of the left seat rail, right seat rail, left leg, right leg, front crossbar, back crossbar, bottom crossbar, 60mm bolts with Loctite, 40mm bolts with Loctite, 35mm bolts with Loctite, and 10mm x 40mm large wooden dowels. The U.S.-origin fabric, dust covers, and welt cord are cut to size and combined with the U.S.-origin foam to form the seat and the seat back. Based on the information presented, when the foreign components are integrated with the U.S. components, they lose their individual identities and become an integral part of a new article, the upholstered wood chair, possessing a new name, character and use. We, therefore, find that the last substantial transformation occurs in the United States. As to whether the upholstered wood chair produced in the United States qualifies as a "U.S.-made end product," you may wish to consult with the relevant government procuring agency and review *Acetris Health, LLC v. United States*, 949 F.3d 719 (Fed. Cir. 2020).

Holding

Based on the information outlined above, we determine that the components imported into the United States undergo a substantial transformation when made into the subject upholstered wood chairs.

Notice of this final determination will be given in the **Federal Register**, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the U.S. Court of International Trade.

Sincerely,
Alice A. Kipel,
Executive Director, Regulations and Rulings,
Office of Trade.

[FR Doc. 2024-12213 Filed 6-3-24; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7090-N-07]

60-Day Notice of Proposed Information Collection: HUD Research, Evaluation, and Demonstration Cooperative Agreements; OMB Control No.: 2528-0299

AGENCY: Office of Policy Development and Research, 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 60 days of public comment.

DATES: *Comments Due Date:* August 5, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can be submitted within 60 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting, "Currently under 60-day Review—Open for Public Comments" or by using the search function. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and can be sent to: Anna Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410-5000 or email at PaperworkReductionActOffice@hud.gov.

FOR FURTHER INFORMATION CONTACT:

Anna Guido, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email; Anna.P.Guido@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.

A. Overview of Information Collection

Title of Information Collection: HUD Research, Evaluation, and Demonstration Cooperative Agreements.

OMB Approval Number: 2528-0299.

Type of Request: Revision of currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: PD&R intends to establish cooperative agreements with qualified for-profit and nonprofit research organizations and universities to conduct research, demonstrations, and data analysis. This information collection includes the post-award materials that cooperative agreement recipients will be required to submit to PD&R over the course of the period of performance of their award. PD&R will use these deliverables to monitor the progress of the research being carried out under the cooperative agreement and to monitor the use of the funding and authorize payments to the awardee.

Respondent: For-profit and nonprofit organizations that are selected to receive an award under HUD's Research, Evaluation, and Demonstration Cooperative Agreements.

Estimated Number of Respondents: HUD anticipates up to 33 organizations may be selected to receive a cooperative agreement award over the three years covered by this ICR. Recipients of the cooperative agreements will be the sole members of the affected public for the reporting requirement.

TABLE 1—ESTIMATED HOUR AND COST BURDEN OF INFORMATION COLLECTION

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Cost
Quality Control Plan	25	0.33	8.25	20	165	\$49.14	\$8,108.10
Management and Work Plan	25	0.33	8.25	40	330	49.14	16,216.20
Sustainability Plan	7	0.33	2.31	40	92.4	49.14	4,540.53
Research Design	29	0.33	9.57	160	1531.2	49.14	75,243.16

TABLE 1—ESTIMATED HOUR AND COST BURDEN OF INFORMATION COLLECTION—Continued

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Cost
Quarterly Progress Reports	33	4	132	4	528	49.14	25,945.92
Final Research Report	33	0.33	10.89	240	2613.6	49.14	128,432.30
Final Narrative Report ..	33	0.33	10.89	5	54.45	49.14	2,675.67
Total .....	.....	.....	.....	.....	5,314.65	.....	261,161.88

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.

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. 3507.

Todd M. Richardson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2024-12172 Filed 6-3-24; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7092-N-30]

Privacy Act of 1974; System of Records

AGENCY: Office of Single-Family Program Development, Office of Housing, HUD.

ACTION: Notice of a modified system of records.

SUMMARY: Under the Privacy Act of 1974, as amended, the Department of Housing and Urban Development (HUD), Office Single-Family Program Development, is issuing a public notice

of its intent to modify the system of records for the "Single Family Mortgage Insurance Origination System (SFMIOS)". SFMIOS combines the features of the: Computerized Homes Underwriting Management System (CHUMS)/Loan Application Management System (LAMS), Federal Housing Administration (FHA) and Connection (FHAC). The purpose of these modifications is to update the system of records name, systems manager, authority for maintenance of the system and routine uses. This notice also includes record source categories, which were erroneously omitted from the prior notice. The updates are explained in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: Comments will be accepted on or before July 5, 2024. The SORN becomes effective immediately, while the routine uses become effective after the comment period immediately upon publication except for the routine uses, which will become 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; Mr. 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: Mr. 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 amends system of records notice (SORN) for the Computerized Homes Underwriting Management System (CHUMS)/Loan Application Management System (LAMS) and Federal Housing Administration (FHA) Connection (FHAC), to include these substantive changes reflecting the new and modified items listed below:

- i. Systems Manager:* Updated to reflect personnel changes.
- ii. Authority for Maintenance of the System:* Updated to add a new citation for the Payment Integrity Information Act of 2019 in conjunction with a new routine use (P) supporting a new computer matching program between CHUMS and the United States Department of the Treasury Department's "Do Not Pay" system.
- iii. Record Source Categories:* This section was erroneously omitted in the prior notice published July 12, 2023, at 88 FR 44386-44389 (Agency Docket No. FR-7077-N-12).

iv. Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses: Item (L) covering the routine use for a computer matching interface between CHUMS and the Social Security Administration is being revised. HUD is revising the statement in parentheses that reads "(This use is specific to CHUMS data)".

The new routine use shall read: "To the Social Security Administration (SSA) through a computer matching program to verify the eligibility of program participants and applicants in FHA's housing finance programs. (This computer matching program is conducted by an interface between

CHUMS and the SSA Enumeration Verification System (EVS).”

A new routine use (P) is being added to cover a new computer matching program conducted by an interface between CHUMS and the US Department of Treasury’s Do Not Pay system. The new routine use shall read: “To the US Department of Treasury through a computer matching program interface between CHUMS and Treasury’s Do Not Pay (DNP) system for the purposes of preventing and recovering improper payments and to verify borrower eligibility to participate in FHA’s mortgage insurance programs per the Payments Integrity Information Act of 2019.”

SYSTEM NAME AND NUMBER:

Single Family Mortgage Insurance Origination System (SFMIOS), HUD/HSNG-03.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATIONS:

The core CHUMS system is in HUD Headquarters, 451 7th Street SW, Washington, DC 20410-1000, and Microsoft Azure Federal Cloud US East Data Center in One Microsoft Way, Redmond, Washington 98052-6399. The Technology Open to Approved Lenders (TOTAL) Scorecard and CHUMS, FHAC and LAMS remain at the National Center for Critical Information Processing and Storage located at NASA’s Shared Services Center, Building 1111, Stennis Space Center, MS 39529-6000.

SYSTEMS MANAGER(S):

Brian Faux, Director, Office of Single-Family Program Development, HUD Headquarters, 451 Seventh Street SW, Washington, DC 20410; telephone (800) 225-5342; email; Brian.Faux@hud.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEMS:

Title I, section 2 of the National Housing Act (12 U.S.C. 1703). Section 202 of the National Housing Act (12 U.S.C. 1708). Section 203 of the National Housing Act (12 U.S.C. 1709). Section 255 of the National Housing Act (12 U.S.C. 1715z-20). 31 U.S.C. 7701. 42 U.S.C. 3543. 24 CFR part 200, subpart U, 24 CFR 203.35 and 31 U.S.C. 3351-3358.

PURPOSE(S) OF THE SYSTEM:

Federal Housing Administration (FHA) Connection (FHAC) is integrated with HUD’s security infrastructure to assign user roles and permissions based on business needs. FHAC’s function as a security and access management portal includes web pages to collect

legal first and last names, Social Security Numbers (SSNs), dates of birth (DOB), mother’s maiden name, work telephone number and email address. All data collected by FHAC for security and access management is stored in Computerized Homes Underwriting Management System (CHUMS).

CHUMS supports HUD and its approved business partners with processing and underwriting applications for single-family mortgages insurance under the National Housing Act. CHUMS provides functionality for tracking and processing cases and managing workloads by HUD field office management. CHUMS also provides functionality to assist lenders and HUD in determining eligibility for participation in HUD’s Single Family mortgage insurance program. CHUMS enables lenders to use automated underwriting systems (AUS) provided by mortgage financial institutions by granting authorized AUS providers access to FHA’s Technology Open to Approved Lenders (TOTAL) Scorecard. TOTAL Scorecard is an automated scorecard tool in CHUMS that is owned and maintained by HUD that must be used in combination with an authorized AUS to evaluate the overall creditworthiness of mortgage loan applications based on a number of credit variables and determines the associated level of risk for all loans submitted for FHA mortgage insurance with the exception of Streamline Refinances and Home Equity Conversion Mortgage (commonly referred to as reverse mortgage) loans.

Loan Application Management System (LAMS) supports the Federal Housing Administration (FHA) mortgage insurance program by providing automated processing, analysis, and screening of appraisal documentation. LAMS receives and stores appraisal data from the Electronic Appraisal Delivery (EAD) portal in a Mortgage Industry Standards Maintenance Organization (MISMO) Extensible Markup Language (XML) format tailored to HUD specifications. LAMS passes certain data elements onto FHAC and CHUMS to ensure data integrity and provide valuable time savings to lenders by reducing the burden of paper-based delivery and manual data entry processes. LAMS provides a limited user interface consisting pre-formatted (canned) reports used by HUD to monitor system activity and to monitor appraiser compliance to HUD requirements. LAMS data is shared outside of HUD pursuant to Routine Use “N” below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

System Users, HUD business partners (appraisers, inspectors, mortgagee staff underwriters), HUD employees and contractors, Mortgagors (Borrowers), Individuals who applied for a mortgage insured under HUD/FHA’s single family mortgage insurance programs, including Home Equity Conversion Mortgages (HECM) Non-Borrowing Spouses, Appraisers (both applicants and Appraisers listed on the HUD Appraiser Roster), 203k Consultants (both applicants and 203k Consultants listed on the HUD 203k Consultant Roster), Mortgagee (Lender) Staff including, but not limited to, loan originators, appraisers, underwriters, processors and file clerks, Individuals registering for access to the HUD Housing Counselor Certification Examination, whether or not they become certified, Individuals registering for HUD Certified Housing Counselor certification or housing counseling clients receiving housing counseling from an agency participating in HUD’s Housing Counseling Clients.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full name, Social Security Number (SSN), IRS Employer Identification Number (EIN), Taxpayer ID, Appraiser Roster ID number, 203k Consultant ID number, License Number, Date of Birth (DOB), mother’s maiden name, home and/or work telephone number, email address, mailing address (home and/or work) and Agency or organization affiliation, Lender ID, racial/ethnic background (if disclosed), sex (if disclosed), credit scores (FICO® scores), Non-borrowing Spouse status (HECM loans only), mortgage loan terms, including documents used by the lender when underwriting the loan (including, but not limited to paystubs, bank statements, tax returns), Appraiser’s license/expiration date, and address, email address, demographic data, Minority Business Enterprise (MBE) Code, 203K Consultant ID number, 203K license number (if applicable), Roster termination date for Appraisers, 203k Consultants, Housing Counselors), business territory/participation state, Nationwide Mortgage Licensing System (NMLS) number, transaction history and/or workload of the individuals using the system, Housing Counseling System (HCS) number, preferred language, and subject property addresses.

RECORD SOURCE CATEGORIES:

Mortgagors, Appraisers, 203k Consultants, Mortgagees and their employees and service providers (loan originators, processors, underwriters),

Housing Counselors, Individuals that pass the HUD Certified Housing Counselor examination, HUD Housing Counseling Program clients that receive education and counseling from a HUD participating housing counseling agency, and HUD employees and contractors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH:

A. To appropriate agencies, entities, and persons when: (a) HUD suspects or has confirmed that there has been a breach of the system of records; (b) HUD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HUD (including its information systems, programs, and operations), the Federal Government, or national security; and (c) 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 or to prevent, minimize, or remedy such harm.

B. To another Federal agency or Federal entity, when HUD determines that information from this system of record is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) 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.

C. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

D. To the General Accounting Office (GAO) for audit purposes.

E. To contractors, grantees, experts, consultants, and the agents thereof, and others performing or working on a contract, service, grant, cooperative agreement, or other agreement with HUD, when necessary to accomplish an agency function related to these systems of records, limited to only those data elements considered relevant to accomplishing an agency function.

F. To the general public through rosters maintained and published by HUD to look up Appraisers, 203k Consultants, Housing Counselors, and HECM Counselors. The information will be released to any interested person only through a specific web page on either www.hud.gov or the HUD Exchange designated by HUD. Such

disclosures are limited to name, contact information, licensing, and certification status.

G. 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: (a) detection, prevention, and recovery of improper payments; (b) detection and prevention of fraud, waste, and abuse in major Federal programs administered by a Federal agency or non-Federal entity; (c) detection of fraud, waste, and abuse by individuals in their operations and programs; (d) 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 pre-payment requirements prior to the release of Federal funds, or to 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.

H. To Federal agencies, and non-Federal entities, including, but not limited to contractors, grantees, experts, consultants, 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 analysis and research to support program operations, management, performance monitoring, evaluation, risk management, and policy development, or to otherwise support the Department's mission. 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.

I. 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 help 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.

J. To a court, magistrate, administrative tribunal, or arbitrator in the course of presenting evidence, including disclosures to opposing counsel or witnesses in civil discovery, litigation, mediation, or settlement negotiations; or in connection with criminal law proceedings; when HUD determines that 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: (a) HUD, or any component thereof; or (b) any HUD employee in his or her official capacity; or (c) any HUD employee in his or her individual capacity where HUD has agreed to represent the employee; or (d) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

K. 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: (a) HUD, or any component thereof; or (b) any HUD employee in his or her official capacity; or (c) 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 (d) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

L. To the Social Security Administration (SSA) through a computer matching program to verify the eligibility of program participants and applicants in FHA's housing finance programs. (This computer matching program conducted by an interface between CHUMS and the SSA Enumeration Verification System (EVS).)

M. To HUD authorized AUS providers and software companies involved in providing access to TOTAL Scorecard including but not limited to Government Sponsored Enterprises (GSEs) Fannie Mae and Freddie Mac, financial institutions, and software

companies to respond to requests for assistance with individual cases submitted to TOTAL Scorecard and for the purposes of research and analysis to enhance program operations and performance through automated underwriting, credit scoring and risk management. PII data used for research and analysis including the results of the research and analysis must be de-identified and aggregated and may not be disclosed or published. (This use is specific to CHUMS data.)

N. To other Federal agencies, (including but not limited to the Federal Housing Finance Agency (FHFA) and the Consumer Financial Protection Bureau), and their contractor/s through data sharing and other agreements for the purposes of research and analysis of automated underwriting, credit enhance oversight of the mortgage market, inform rulemaking, assess program effectiveness, and to publish de-identified aggregate data and results of research and analysis. (This use is specific to CHUMS data.)

O. To Federal financial regulators, Fair Lending enforcement agencies, and financial institutions (including, but not limited to the Federal Housing Finance Agency (FHFA), Government Sponsored Enterprises (GSEs) Fannie Mae and Freddie Mac, Veterans Administration, US Department of Agriculture Rural Development Agency, Consumer Financial Protection Bureau, the Federal Reserve, and the Appraisal Subcommittee) through data sharing agreements and other agreements for the purposes of analysis and research to assess program compliance and risks associated with real estate appraisal and other property valuation methods used in Federal housing finance transactions. Recipients may use the data, including analysis and research, in conducting investigations and taking enforcement action (including cases and administrative proceedings) for violations of laws, rules, or regulations, and for coordinated policy development and implementation. (This routine use is specific to LAMS data.)

P. To the US Department of Treasury through a computer matching program interface between CHUMS and Treasury's Do Not Pays (DNP) system for the purposes of preventing and recovering improper payments and to verify borrower eligibility to participate in FHA's mortgage insurance programs per the Payments Integrity Information Act of 2019.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic only.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by Name and Social Security Number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Per HUD Schedule Appendix 20 Single Family Home Mortgage Insurance Program Records, item 13B6, and HUD Schedule Appendix 5, Technical Support Records, all records in FHAC, CHUMS and LAMS will be destroyed when superseded or obsolete. Per General Record Schedule 5.2, Item 20, all FHAC, CHUMS and LAMS records are temporary and are to be destroyed 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: The core CHUMS system and all data are maintained simultaneously across multiple data centers within the Microsoft Azure Federal cloud, which are located within FedRAMP security approved facilities. For technical reasons, certain CHUMS databases, FHAC and LAMS are located and backed up on servers housed within secure Federal data facilities and not in the cloud.

Physical Safeguards: Controls to secure the data and protect electronic records, buildings, and related infrastructure against threats associated with their physical environment include, but are not limited to, using cypher and combination locks, key card controlled access, security guards, closed circuit TV, identification badges, and safes. Administrative controls include encryption of back-up data, back-ups secured off-site, methods to ensure only authorized users have access to PII, periodic security audits, regular monitoring of system users' behavior and users' Security Practices.

Technical Safeguards: Controls for the systems include, but are not limited to, encryption of Data at Rest and in Transit, firewalls at HUD, user ID, password protection, role-based access controls, Least Privileged access, elevated and/or administrative privileged access, Personal Identify Verification cards, intrusion detection systems. Unauthorized access is controlled by application-level security.

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 accessing, contesting, and appealing agency determinations by the individual concerned are published in 24 CFR part 16 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-7077-N-12, 88-FR-44386, July 12, 2023; Docket No. FR-5921-N-17, 81-FR-71750, October 18, 2016.

LaDonne White,
Chief Privacy Officer, Office of Administration.

[FR Doc. 2024-12178 Filed 6-3-24; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX24GK009970000]

Advisory Committee on Landslides; Call for Nominations

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Call for nominations.

SUMMARY: The U.S. Geological Survey seeks nominations for individuals to be considered for membership to serve on the Advisory Committee on Landslides.

DATES: All nominations must be received no later than August 5, 2024.

ADDRESSES: Please email nominations to Dr. Jonathan Godt, Designated Federal Officer, Advisory Committee on Landslides, at jgodt@usgs.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Jonathan Godt, Landslide Hazards Program Coordinator and Designated Federal Officer, via email at jgodt@usgs.gov, or by telephone at 303-905-9468. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Advisory Council on Landslides (ACL) is established under the National Landslide Preparedness Act (Pub. L. 116-323) and regulated by the Federal Advisory Committee Act, 5 U.S.C. ch. 10. The ACL provides advice and recommendations to the Secretary of the Interior through the Interagency Coordinating Committee on Landslide Hazard on the implementation of the National Landslide Preparedness Act. The ACL will be composed of no fewer than 11 representative members and will meet 1-2 times per year.

Members of the ACL will be individuals not employed by the Federal Government who are qualified in landslide hazard and risk or related fields. The ACL membership will be representative of:

- States, including State geological organizations;
- territories, including territorial geological organizations;
- Indian Tribes, including Tribal geological organizations;
- research institutions and institutions of higher education qualified to provide advice regarding landslide hazard and risk reduction, and representing related scientific, architectural, engineering, and planning disciplines;
- industry standards development organizations; and
- State, territorial, local, and Tribal emergency management agencies.

Selection of members will ensure that a reasonable cross-section of views and expertise is represented on the ACL, including a range of geographies and communities impacted by landslide hazards in the United States. Each member will serve a term of up to three years, with terms staggered to ensure continuity.

Members of the ACL serve without compensation. However, while away from their homes or regular places of business, ACL and subcommittee members engaged in ACL or subcommittee business that the

Designated Federal Official approves may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

Nominations should include a resume that provides contact information and a description of the nominee's qualifications that would enable the Department of the Interior to make an informed decision regarding the candidate's suitability to serve on the ACL. Send nominations to the Designated Federal Officer at the email provided in **ADDRESSES**. Additional information about the ACL may be found online at: <https://www.usgs.gov/programs/landslide-hazards/advisory-committee-landslides-acl>.

Authority: 5 U.S.C. ch. 10.

Gary D. Latzke,

Chief of Staff, USGS Natural Hazards Mission Area.

[FR Doc. 2024-12161 Filed 6-3-24; 8:45 am]

BILLING CODE 4338-11-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/
AOA501010.999900]

HEARTH Act Approval of Tunica-Biloxi Indian Tribe Residential Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) approved the Tunica-Biloxi Indian Tribe Residential Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into residential leases without further BIA approval.

DATES: BIA issued the approval on May 21, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Clark, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, carla.clark@bia.gov, (702) 484-3233.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act

authorizes Tribes to negotiate and enter into business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal Leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Tunica-Biloxi Indian Tribe.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447-48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation v. Thurston County*, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because "tax on the payment of

rent is indistinguishable from an impermissible tax on the land.” See *Seminole Tribe of Florida v. Stranburg*, 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of “traditional notions of Indian self-government,” requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department’s leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress’s overarching intent was to “allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.” 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes “flexibility to adapt lease terms to suit [their] business and cultural needs” and to “enable [Tribes] to approve leases quickly and efficiently.” H. Rep. 112–427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. See *Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that “[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding”). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. See *id.* at 810–11 (finding that State and local taxes

greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA’s surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. See 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassessing lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to 25 CFR part 162.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or 25 CFR part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Tunica-Biloxi Indian Tribe.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–12214 Filed 6–3–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_MO4500179539]

Notice of Public Meeting of the Mojave Southern-Great Basin Resource Advisory Council, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the U.S. Department of the Interior, Bureau of Land Management’s (BLM) Mojave Southern-Great Basin Resource Advisory Council (RAC) will meet as follows.

DATES: The RAC will participate in a public meeting on August 14, 2024, from 1 p.m. to 5 p.m. Pacific time (PT), and August 15, 2024, from 9 a.m. to 1 p.m. PT, with a virtual participation option. Public comments will be accepted throughout the scheduled agenda items, with general public comments accepted at 12:30 p.m. PT on August 15, 2024. The meeting is open to the public.

ADDRESSES: The meeting will be held at the BLM Southern Nevada District Office, 4701 North Torrey Pines, Las Vegas, NV 89130. The final agenda, virtual meeting link, and participation instructions will be made available to the public via the RAC’s web page at least two weeks prior to the meeting at <https://www.blm.gov/get-involved/resource-advisory-council/near-me/nevada>.

Written comments pertaining to the above meeting can be sent to the address in the **ADDRESSES** section, Attention: Theresa Coleman/RAC meeting comments.

FOR FURTHER INFORMATION CONTACT:

Public Affairs Specialist Kirsten Cannon, email: k1cannon@blm.gov, or telephone: 702–515–5057. 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.

Please make requests in advance for sign language interpreter services, assistive listening devices, language translation services, 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.

SUPPLEMENTARY INFORMATION: Topics for the RAC meeting are as follows:

On August 14, 2024, the RAC will receive an orientation and be provided district overviews. On August 15, 2024, the RAC will discuss proposed feedback areas based on district priorities, elect officers, and schedule additional meeting dates.

The meeting is open to the public. The formal RAC meeting will have time allocated for public comments. Depending on the number of persons wishing to speak and the time available,

the amount of time for oral comments may be limited. Written public comments may be sent to the BLM Southern Nevada District Office listed in the **ADDRESSES** section of this notice. All comments received will be provided to the RAC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Detailed minutes for the RAC meetings will be maintained in the BLM Southern Nevada District Office. Minutes will also be posted to the BLM Nevada RAC web page.

(Authority: 43 CFR 1784.4–2)

Theresa Coleman,

Southern Nevada District Manager.

[FR Doc. 2024–12128 Filed 6–3–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–38047;
PPWOCRADIO, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before May 25, 2024, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by June 20, 2024.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line “Public Comment on <property or proposed district name, (County) State>.” If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register

of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov*, 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 25, 2024. Pursuant to section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers.

Key: State, County, Property Name, Multiple Name (if applicable), Address/Boundary, City, Vicinity, Reference Number.

ALABAMA

Houston County

Dupree School, 1116 Antioch Church Road, Ashford, SG100010471

HAWAII

Hawaii County

Mauna Kea Traditional Cultural Property and District, Mauna Kea, Mauna Kea, SG100010485

MARYLAND

Prince George's County

Cheverly Historic District, The district is defined by the first 11 platted sections of the town, roughly bounded by Landover Road to the north, 63rd and 64th Avenues to the east, Reed Street to the south, and Crest Avenue and Tremont Avenue to the west, with houses on both side, Cheverly, SG100010470

MISSISSIPPI

Harrison County

J.W. Randolph School, 315 Clark Avenue, Pass Christian, SG100010472

NEBRASKA

Douglas County

Elkhorn Commercial Historic District, (Lincoln Highway in Nebraska MPS), Four blocks in the original town plat of downtown Elkhorn centered on N. Main

and N. 205th Streets, Elkhorn, MP100010478

NEW YORK

Otsego County

House at 120 Balcom Road, 120 Balcom Road, Mount Vernon, SG100010480

Tompkins County

John Creque House, 24 Congress Street, Ulysses, SG100010482

OHIO

Carroll County

Methodist Episcopal Church, 121 West Wood Street, Malvern, SG100010474

Franklin County

Holy Rosary Roman Catholic Church Complex, 1651, 1667 East Main Street, 498 Berkeley Road, and 1640 East Mound Street, Columbus, SG100010473

WISCONSIN

Kewaunee County

TRINIDAD Shipwreck (Schooner), (Great Lakes Shipwreck Sites of Wisconsin MPS), Address Restricted, Algoma, MP100010476

Winnebago County

Johnson, Isabel and Orrin, House, 1002 East Forest Avenue, Neenah, SG100010486

A request for removal has been made for the following resource(s):

NEW YORK

Richmond County

STANDARD OIL COMPANY NO. 16 (harbor tug), 3001 Richmond Terrace, Staten Island, OT01001321

Additional documentation has been received for the following resource(s):

NEW YORK

Columbia County

Philmont Historic District (Additional Documentation), Ark St., Band St., Block St., Canal St., Church St., Columbia Ave., Eagle St., Ellsworth St., Elm St., Garden St., Main St., Maple Ave., Philmont, AD100010025

Nomination(s) submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nomination(s) and responded to the Federal Preservation Officer within 45 days of receipt of the nomination(s) and supports listing the properties in the National Register of Historic Places.

A request for removal has been made for the following resource(s):

UTAH

Duchesne County

Simmons Ranch, 8 mi. S of US 40, Fruitland vicinity, OT92000463

Authority: Section 60.13 of 36 CFR part 60.

Sherry A. Frear,

*Chief, National Register of Historic Places/
National Historic Landmarks Program.*

[FR Doc. 2024–12226 Filed 6–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS–WASO–NRNHL–DTS#–38032;
PPWOCRADIO, PCU00RP14.R50000]**

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before May 18, 2024, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by June 20, 2024.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line “Public Comment on <property or proposed district name, (County) State>.” If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov*, 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 18, 2024. Pursuant to section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that

your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers.

Key: State, County, Property Name, Multiple Name (if applicable), Address/ Boundary, City, Vicinity, Reference Number.

ALABAMA

Montgomery County

First Baptist Church, (The Civil Rights Movement in Montgomery, Alabama, 1850–1984 MPS), 347 N Ripley Street, Montgomery, MP100010460

Centennial Hill Historic District, (The Civil Rights Movement in Montgomery, Alabama, 1850–1984 MPS), Roughly bound by Highland and Adams Avenue to the north, Hall Street to the east, I–85 to the south, and South Bainbridge Street to the west, Montgomery, MP100010461

ARIZONA

Maricopa County

Snyder, Dr. Bertram L., House, 8122 N 10th Avenue, Phoenix, SG100010454

DISTRICT OF COLUMBIA

District of Columbia

Charles Dickson Site, (African American Rural Home Sites in Washington, DC, 1865–1900 MPS), Address Restricted, Washington vicinity, MP100010450

Jane Dickson Site, (African American Rural Home Sites in Washington, DC, 1865–1900 MPS), Address Restricted, Washington vicinity, MP100010451

Sarah Whitby Site, (African American Rural Home Sites in Washington, DC, 1865–1900 MPS), Address Restricted, Washington vicinity, MP100010452

MAINE

Franklin County

Webb River Grange, 112 Main Street, Carthage, SG100010455

Lincoln County

Village School at Puddle Dock, 275 Head Tide Road/ME 194, Alna, SG100010456

Oxford County

Gilead Railroad Station, 8 Depot Street, Gilead, SG100010457

NEBRASKA

Antelope County

Neligh Carnegie Library, (Carnegie Libraries in Nebraska MPS), 510 M St., Neligh, MP100010466

Douglas County

Omaha Fire Department No. 5, 4702 South 25th Street, Omaha, SG100010465

Lancaster County

First United Methodist Church Lincoln, 2720 N 50th St., Lincoln, SG100010464

NORTH DAKOTA

Burleigh County

Highland Acres Historic District (Boundary Increase), Roughly bounded by Shafer St., Edwards Ave., the axis of Williams St. and S Highland Acres Rd. plus either side of Arthur Dr., Bismarck, BC100010467

OHIO

Summit County

Akron Temple Israel Synagogue, 133 Merriman Road, Akron, SG100010462

WISCONSIN

Sheboygan County

MOJAVE Shipwreck (Barkentine), (Great Lakes Shipwreck Sites of Wisconsin MPS), Address Restricted, Town of Mosel vicinity, MP100010466

An additional documentation has been received for the following resource(s):

ALABAMA

Cleburne County

Morgan, John, House (Additional Documentation), 321 Ross St., Heflin, AD93000762

NEBRASKA

Douglas County

Omaha Star, The (Additional Documentation), 2216 N 24th St., Omaha, AD07001322

SOUTH CAROLINA

Charleston County

McClellanville Historic District (Additional Documentation), Pinckney, Lofton, Charlotte, Church, Water, Oak, Venning, Legare, Morrison, and Scotia Sts., McClellanville, AD82003845

TENNESSEE

Hamilton County

Tivoli Theater (Additional Documentation), (Hunt, Reuben H., Buildings in Hamilton County TR (AD)), 709 Broad St., Chattanooga, AD73001779

Authority: Section 60.13 of 36 CFR part 60.

Sherry A. Frear,

*Chief, National Register of Historic Places/
National Historic Landmarks Program.*

[FR Doc. 2024–12227 Filed 6–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR**Bureau of Reclamation**

[RR83550000, 245R5065C6,
RX.59389832.1009676]

**Quarterly Status Report of Water
Service, Repayment, and Other Water-
Related Contract Actions**

AGENCY: Bureau of Reclamation,
Interior.

ACTION: Notice of contract actions.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and are new, discontinued, or completed since the last publication of this notice. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Morgan Raymond, Reclamation Law Administration Division, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225-0007; mraymond@usbr.gov; telephone 303-445-3382.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of 1939, and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either

of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the "Final Revised Public Participation Procedures" for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.
2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.
3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.
4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.
5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.
6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his or her designated public contact as they become available for review and comment.
7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to, (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director will furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Used in the Reports

BCP Boulder Canyon Project
Reclamation Bureau of Reclamation
CAP Central Arizona Project
CUP Central Utah Project
CVP Central Valley Project
CRSP Colorado River Storage Project
XM Extraordinary Maintenance
EXM Emergency Extraordinary
Maintenance
FR Federal Register
IDD Irrigation and Drainage District
ID Irrigation District
M&I Municipal and Industrial
O&M Operation and Maintenance
OM&R Operation, Maintenance, and
Replacement
P-SMBP Pick-Sloan Missouri Basin
Program
RRA Reclamation Reform Act of 1982
SOD Safety of Dams
SRPA Small Reclamation Projects Act of
1956
USACE U.S. Army Corps of Engineers
WD Water District
WIIN Act Water Infrastructure
Improvements for the Nation Act

Missouri Basin—Interior Region 5:
Bureau of Reclamation, P.O. Box 36900,
Federal Building, 2021 4th Avenue
North, Billings, Montana 59101,
telephone 406-247-7752.

New contract actions:

24. Axtell Ranches, LLC, Boysen Unit,
Wyoming: Consideration for renewal of
long-term irrigation water service
contract No. 049E6A0013.

25. Crow Creek Sioux Tribe, Crow
Creek Irrigation Project, P-SMBP, North
Dakota: Consideration for renewal of
contract for the sale of project use
power.

26. City of Dickinson, North Dakota
Dickinson Unit, P-SMBP, Eastern
Division, North Dakota: Consideration
for new long-term M&I water service
contract.

Modified contract actions:

9. Garrison Diversion Conservancy
District; Garrison Diversion Unit, P-
SMBP; North Dakota: Intent to modify
repayment contract to add irrigated
acres.

*Upper Colorado Basin—Interior
Region 7:* Bureau of Reclamation, 125
South State Street, Room 8100, Salt
Lake City, Utah 84138-1102, telephone
801-524-3864.

New contract actions:

42. Albuquerque Bernalillo County Water Utility Authority, San Juan-Chama Project, New Mexico: A two-year extension letter for temporary water storage contract No. 21-WC-40-912 is under review.

43. Middle Rio Grande Conservancy District, Middle Rio Grande Project—El Vado, New Mexico: Negotiations for a 20-year repayment contract for XM work on the El Vado Stilling Basin at El Vado Dam. Funding is provided under Section 40901(2) of the Bipartisan Infrastructure Law of 2021 (Pub. L. 117–58, 135 Stat.429, 43 U.S.C. 3201).

Discontinued contract actions:

20. Moon Lake Water Users Association, Moon Lake Project, Utah: The Association was interested in installing a small hydro-electric generation plant on the outlet works of Moon Lake Dam.

22. Eden Valley IDD, Eden Project, Wyoming: The Eden Valley IDD proposed to raise the level of Big Sandy Dam to fully perfect its water rights.

25. Enchant Energy Corporation, Navajo-Gallup Water Supply Project, New Mexico (Project): Negotiations for a carriage contract with Enchant Energy Corporation pursuant to Public Law 111–11, section 10602(h) which provides conveyance and storage of non-project water through Project facilities and sets forth payment of OM&R costs assignable to Enchant Energy for the use of Project facilities.

34. D. E. Shaw Renewable Investments, Navajo-Gallup Water Supply Project, New Mexico: Reclamation received a request for negotiations for a carriage contract with Shaw pursuant to Public Law 111–11, section 10602(h) which provides conveyance and storage of non-project water through project facilities and sets forth payment of OM&R costs assignable to the Shaw for the use of project facilities.

41. Weber Basin Water Conservancy District, Weber Basin Project, Utah: Contract for the use of return flows from the Weber Basin Project.

Completed contract actions:

5. Pojoaque Valley ID, San Juan-Chama Project, New Mexico: Amendment to the repayment contract to reflect the changed allocations of the Aamodt Litigation Settlement Act (title VI of the Claims Resolution Act of 2010, Public Law 111–291, December 8, 2010, and article 7 of the Settlement Agreement dated April 19, 2012). Completed May 23, 2023.

12. Navajo-Gallup Water Supply Project, New Mexico: Negotiations for an OM&R transfer contract with the Navajo Tribal Utility Authority pursuant

to Public Law 111–11, section 10602(f) which transfers responsibilities to carry out the OM&R of transferred works of the Project; ensures the continuation of the intended benefits of the Project; distribution of water; and sets forth the allocation and payment of annual OM&R costs of the Project. Completed June 30, 2022.

24. Public Service Company of New Mexico, Navajo-Gallup Water Supply Project, New Mexico: Negotiations for a carriage contract with Public Service Company of New Mexico pursuant to Public Law 111–11, section 10602(h), which provides conveyance and storage of non-project water through Project facilities and sets forth payment of OM&R costs assignable to the Company for the use of Project facilities. Completed November 7, 2023.

27. Jicarilla Apache Nation, Navajo Project, New Mexico: Water service agreement between the Jicarilla Apache Nation and SIMCOE for delivery of 1,500 acre-feet of M&I water from the Jicarilla's Settlement Water from the Navajo Reservoir Supply. This agreement has a term through December 31, 2026. Completed April 25, 2023.

28. San Juan Water Commission, Public Service Company of New Mexico, and the La Plata Conservancy District; Animas-La Plata Project; New Mexico: Contract for the delivery of 500 acre-feet of M&I water from the Navajo Reservoir supply as supplemented via exchange of Animas-La Plata Project water at the confluence of the San Juan and Animas Rivers. This agreement has a term through December 31, 2032. Completed November 9, 2023.

37. Los Ranchitos Estates, Florida Project, Colorado: Long-term water service contract (25 years) to augment depletions from residential water uses within the subdivision. The contract is for 36 acre-feet of water annually. Completed August 9, 2023.

38. Forrest Groves Estates, Florida Project, Colorado: Long-term water service contract (25 years) to augment depletions from residential water uses within the subdivision. The contract is for 43 acre-feet of water annually. Completed August 9, 2023.

39. Country Aire Estates, Florida Project, Colorado: Long-term water service contract (25 years) to augment depletions from residential water uses within the subdivision. The contract is for 7 acre-feet of water annually. Completed August 9, 2023.

Lower Colorado Basin—Interior Region 8: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

New contract actions:

15. Kaman, Inc., Yuma Mesa Division, Gila Project, Arizona: Terminate contract No. 14–06–303–1555 pursuant to Article 13.

16. GM Gabrych Family Limited Partnership, BCP, Arizona: Proposed assignment of Colorado River water delivery contract No. 17–XX–30–W0628 providing for 4,500 acre-feet of Arizona fourth-priority water for irrigation use and proposed assignment of system conservation implementation agreement No. 23–XX–30–W0774 that provides the terms and conditions for creating system conservation water in calendar years 2023, 2024, and 2025 to Matador Farms, LLC.

Columbia-Pacific Northwest—Interior Region 9: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

The Columbia-Pacific Northwest—Interior Region 9 has no updates to report for this quarter.

California-Great Basin—Interior Region 10: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

New contract actions:

37. CVP, California: Renewal of Memorandums of Understanding with the United States Fish & Wildlife Service, Contracts with California Department of Fish and Wildlife, and Contract with Grasslands Water District for a long term water supply for units of the National Wildlife Refuge System in the Central Valley of California, Gray Lodge, Los Banos, Volta, North Grasslands, and Mendota State Wildlife Areas, and Grasslands Resources Conservation District in the Central Valley of California, respectively.

Completed contract actions:

25. Shasta County Water Agency, CVP, California: Proposed partial assignment of 400 acre-feet of the Shasta County Water Agency's CVP water supply to the Shasta Community Services District for M&I use. Completed December 8, 2023.

26. Solano County Water Agency, Solano Project, California: Renewal of water service and OM&R contracts. Completed January 15, 2024.

28. Napa County Flood Control and Water Conservation District, Solano Project, California: Renewal of long-term water service contract for up to 1,500 acre-feet from Lake Berryessa. Completed January 16, 2024.

Christopher Beardsley,

Director, Mission Assurance and Protection Organization.

[FR Doc. 2024–12229 Filed 6–3–24; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION
[USITC SE–24–025]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 11, 2024 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

- Agendas for future meetings: none.
- Minutes.
- Ratification List.
- Commission vote on Inv. Nos. 731–TA–1629–1631, 1633, 1636–1638 and 1640 (Final) (Mattresses from Bosnia and Herzegovina, Bulgaria, Burma, Italy, Philippines, Poland, Slovenia, and Taiwan). The Commission currently is scheduled to complete and file its determinations and views of the Commission on June 28, 2024.
- Outstanding action jackets: none.

CONTACT PERSON FOR MORE INFORMATION: Sharon Bellamy, Supervisory Hearings and Information Officer, 202–205–2000.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.
Issued: May 31, 2024.

Sharon Bellamy,
Supervisory Hearings and Information Officer.
[FR Doc. 2024–12361 Filed 5–31–24; 4:15 pm]
BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

On May 23, 2024, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Colorado in the lawsuit entitled *United States of America v. Union Carbide Corp. and Umetco Minerals Corp.*, Civil Action No. 1:24–cv–01463, Docket No. 2–1.

The proposed consent decree resolves claims alleged in the complaint against Union Carbide Corp. and Umetco

Minerals Corp. (Defendants) under Section 107(a) of CERCLA for response costs incurred by the U.S. Environmental Protection Agency at the Uravan Uranium Project Superfund Site (Site), located in Montrose County, Colorado. The proposed consent decree requires Defendants to pay \$600,000 to reimburse response costs incurred by the United States and to comply with institutional controls and other requirements for property owned within the Site.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments on the proposed consent decree should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and should refer to *United States of America v. Union Carbide Corp., et al.*, D.J. Ref. No. 90–11–3–12130. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the proposed consent decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Jeffrey Sands,
Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.
[FR Doc. 2024–12146 Filed 6–3–24; 8:45 am]
BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

222nd Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 222nd open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held on July 8–10, 2024.

On Monday, July 8, 2024, the meeting will begin at 1:00 p.m. and end at approximately 4:30 p.m. (ET). On Tuesday, July 9, 2024, the meeting will begin at 9:00 a.m. and end at approximately 6:00 p.m. (ET), with a one-hour break for lunch. On Wednesday, July 10, 2024, the meeting will begin at 9:00 a.m. and end at approximately 3:00 p.m. (ET), with a one-hour break for lunch.

The three-day meeting will take place at the U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210 in Room 6, C5320. The meeting will also be accessible via teleconference and some participants, as well as members of the public, may elect to attend virtually. Instructions for public teleconference access will be available on the ERISA Advisory Council’s web page at <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council> approximately one week prior to the meeting.

The purpose of the open meeting is for Advisory Council members to hear testimony from invited witnesses and to receive an update from the Employee Benefits Security Administration (EBSA).

The Advisory Council will study the following topics: (1) Making Welfare Plan Claims and Appeals Procedures More Accessible to Participants, and (2) Lifetime Income and Qualified Defined Investment Alternatives (QDIAs). Descriptions of these topics, once finalized, will be available on the ERISA Advisory Council’s web page at <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council>.

Organizations or members of the public wishing to submit a written statement on any of the matters before the Advisory Council may do so on or before Monday, July 1, 2024, to George Pantazopoulos, Executive Secretary, ERISA Advisory Council. Statements should be transmitted electronically as an email attachment in text or pdf

format to ERISAA AdvisoryCouncil@dol.gov. Statements transmitted electronically that are included in the body of the email will not be accepted. Relevant statements received on or before Monday, July 1, 2024, will be included in the record of the meeting and made available through the EBSA Public Disclosure Room. No deletions, modifications, or redactions will be made to the statements received as they are public records. **Warning:** Do not include any personally identifiable or confidential business information that you do not want publicly disclosed.

Individuals or representatives of organizations interested in addressing the ERISA Advisory Council at the public meeting must submit a written request to the Executive Secretary on or before Monday, July 1, 2024, via email to ERISAA AdvisoryCouncil@dol.gov. Requests to address the Council must include: (1) the name, title, organization, address, email address, and telephone number of the individual who would appear; (2) if applicable, the name of the organization(s) whose views would be represented; and (3) a concise summary of the statement that would be presented. Each individual or organization will be given 10 minutes to address the Council and should be prepared to answer questions regarding their written and oral statements. An agenda for the meeting, including a schedule of testimony from invited witnesses and a schedule of members of the public who will address the Council, will be posted on the ERISA Advisory Council's web page at <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council> no later than July 3, 2024. The number of public commenters that address the Council may be limited based on the number of requests that are received. In that event, the broadest array of viewpoints on all aspects of the matters under consideration by the Advisory Council will be represented and all written statements received will be included in the public record.

Individuals who need special accommodations should contact the Executive Secretary on or before Monday, July 1, 2024, via email to ERISAA AdvisoryCouncil@dol.gov or by telephoning (202) 693-8654.

For more information about the meeting, contact the Executive Secretary at the address or telephone number above.

Signed at Washington, DC, this 30th day of May, 2024.

Lisa M. Gomez,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2024-12208 Filed 6-3-24; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Veterans Supplement to the Current Population Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before July 5, 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.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202-693-0213, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: The Veterans Supplement to the Current Population Survey is conducted annually. This supplement is co-sponsored by the U.S. Department of Veterans Affairs and by the U.S. Department of Labor's Veterans

Employment and Training Service. Data collected through this supplement will be used by the co-sponsors to determine policies that better meet the needs of our Nation's veteran population. The supplement provides information on the labor force status of veterans with a service-connected disability, combat veterans, past or present National Guard and Reserve members, and recently discharged veterans. Afghanistan, Iraq, and Vietnam veterans are identified by location of service. Also, questions include items about veterans' transition from Active Duty to civilian employment, details about working with service-connected disabilities, awareness of VA benefits, and work duties while in the Armed Forces. Data are provided by period of service and a range of demographic characteristics. The supplement also provides information on veterans' participation in various transition and employment and training programs. Respondents are veterans who are not currently on active duty or are members of a household where a veteran lives. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 27, 2024 (89 FR 14522).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

Agency: DOL-BLS.

Title of Collection: Veterans Supplement to the Current Population Survey.

OMB Control Number: 1220-0102.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 5,500.

Total Estimated Number of Responses: 5,500.

Total Estimated Annual Time Burden: 390 hours.

Total Estimated Annual Other Costs Burden: \$7,504.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024-12162 Filed 6-3-24; 8:45 am]

BILLING CODE 4510-24-P

DEPARTMENT OF LABOR**Bureau of Labor Statistics****Information Collection Activities;
Comment Request**

AGENCY: Bureau of Labor Statistics,
Department of Labor.

ACTION: Notice of information collection,
request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the “The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.” A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before August 5, 2024.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room G225, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to BLS_PRA_Public@bls.gov.

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202-691-7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:**I. Background**

The Consumer Expenditure (CE) Surveys collect data on consumer expenditures, demographic information, and related data needed by the Consumer Price Index (CPI) and other public and private data users. The continuing surveys provide a constant measurement of changes in consumer expenditure patterns for economic analysis and to obtain data for future

CPI revisions. The CE Surveys have been ongoing since 1979.

The data from the CE Surveys are used (1) for CPI revisions, (2) to provide a continuous flow of data on income and expenditure patterns for use in economic analysis and policy formulation, and (3) to provide a flexible consumer survey vehicle that is available for use by other Federal Government agencies. Public and private users of price statistics, including Congress and the economic policymaking agencies of the Executive branch, rely on data collected in the CPI in their day-to-day activities. Hence, data users and policymakers widely accept the need to improve the process used for revising the CPI. If the CE Surveys were not conducted on a continuing basis, current information necessary for more timely, as well as more accurate, updating of the CPI would not be available. In addition, data would not be available to respond to the continuing demand from the public and private sectors for current information on consumer spending.

In the Quarterly Interview Survey, each consumer unit (CU) in the sample is interviewed every three months over four calendar quarters. The sample for each quarter is divided into three panels, with CUs being interviewed every three months in the same panel of every quarter. The Quarterly Interview Survey is designed to collect data on the types of expenditures that respondents can be expected to recall for a period of three months or longer. In general the expenses reported in the Interview Survey are either relatively large, such as property, automobiles, or major appliances, or are expenses which occur on a fairly regular basis, such as rent, utility bills, or insurance premiums.

The Diary (or recordkeeping) Survey is completed at home by the respondent family for two consecutive one-week periods. The primary objective of the Diary Survey is to obtain expenditure data on small, frequently purchased items which normally are difficult to recall over longer periods of time.

II. Current Action

Office of Management and Budget clearance is being sought to continue the Consumer Expenditure Surveys: The Quarterly Interview (CEQ) and the Diary (CED) and to make modifications to both.

For both the CEQ and CED, a new sample of PSUs will be drawn based on the 2020 Census.

In the CEQ, CE requests clearance to incorporate outlet collection changes for the Interview survey based on CPI

requirements related to the 2025 geographical revision. CE will use three temporary population groups (POPGRPs) to collect outlet data for sourcing outlets for new PSUs to accommodate needed outlet data for the CPI sample redesign.

Additionally, recall apparel questions which do not pertain to current interview items will be deleted. Additionally, the business screener question follow-up text will be deleted as Field Representatives (FRs) indicated it caused confusion.

In the CED, CE requests clearance to delete the following from the cover of the current Diary collection form: “If you have comments regarding this survey, please email CEcomments@bls.gov”. There are currently two points of contact listed on the form, the field representative and BLS. This will eliminate any confusion for the respondent regarding a point of contact.

Additionally, minor wording changes were made to both the online diary user guide, ‘Welcome’ email, and ‘Reminder’ email to ease understanding.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Title of Collection: The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

OMB Number: 1220-0050.

Type of Review: Revision.

Affected Public: Individuals or Households.

Form	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden
CEQ Interview	4,475	4	17,900	63	18,795
CEQ Reinterview	2,148	1	2,148	10	358
CED Record-keeping	6,050	2	12,100	60	12,100
CED Interview	6,050	2	12,100	19	3,832
CED Reinterview	1,210	1	1,210	10	202
Totals	10,525	.....	45,458	.....	35,287

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on this 29th day of May, 2024.

Eric Molina,

*Chief, Division of Management Systems,
Branch of Policy Analysis.*

[FR Doc. 2024-12163 Filed 6-3-24; 8:45 am]

BILLING CODE 4510-24-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-24-0013; NARA-2024-038]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on [regulations.gov](https://www.regulations.gov) for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: We must receive responses on the schedules listed in this notice by July 22, 2024.

ADDRESSES: To view a records schedule in this notice, or submit a comment on one, use the following address: <https://www.regulations.gov/docket/NARA-24-0013/document>. This is a direct link to the schedules posted in the docket for this notice on [regulations.gov](https://www.regulations.gov). You may submit comments by the following method:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. On the website, enter either of the numbers cited at the top of this notice into the

search field. This will bring you to the docket for this notice, in which we have posted the records schedules open for comment. Each schedule has a ‘comment’ button so you can comment on that specific schedule. For more information on [regulations.gov](https://www.regulations.gov) and on submitting comments, see their FAQs at <https://www.regulations.gov/faq>.

If you are unable to comment via [regulations.gov](https://www.regulations.gov), you may email us at request.schedule@nara.gov for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on. You can find the control number for each schedule in parentheses at the end of each schedule’s entry in the list at the end of this notice.

FOR FURTHER INFORMATION CONTACT:

Eddie Germino, Strategy and Performance Division, by email at regulation_comments@nara.gov or at 301-837-3758. For information about records schedules, contact Records Management Operations by email at request.schedule@nara.gov or by phone at 301-837-1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a) and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the [regulations.gov](https://www.regulations.gov) docket for this notice as “other” documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal

memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the [regulations.gov](https://www.regulations.gov) portal, you may contact request.schedule@nara.gov for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we may or may not make changes to the proposed records schedule. The schedule is then sent for final approval by the Archivist of the United States. After the schedule is approved, we will post on [regulations.gov](https://www.regulations.gov) a “Consolidated Reply” summarizing the comments, responding to them, and noting any changes we made to the proposed schedule. You may elect at [regulations.gov](https://www.regulations.gov) to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at <https://www.archives.gov/records-mgmt/rcs>, after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention

periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Defense, Department of the Army, Army Warrior Care Transition System (DAA-AU-2021-0017).

2. Department of Health and Human Services, Administration for Strategic Preparedness and Response, Emergency Preparedness Activities Records (DAA-0611-2023-0015).

3. Department of Health and Human Services, Administration for Strategic Preparedness and Response, Recovery Operations Records (DAA-0611-2023-0013).

4. Department of Homeland Security, Federal Emergency Management Agency, Community Disaster Loan Files (DAA-0311-2023-0002).

5. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification Program Records (DAA-0369-2022-0001).

6. Department of Transportation, Bureau of Transportation Statistics, Records of the Close Call Data System (DAA-0398-2024-0001).

7. Department of Transportation, Federal Aviation Administration, Congressional Relations Records (DAA-0237-2023-0019).

8. Department of Transportation, National Highway Traffic Safety Administration, Office of Defects

Investigation Record Schedule for Standing General Order 2021-01 (DAA-0416-2023-0001).

9. Department of Transportation, National Highway Traffic Safety Administration, Records of the Office of Vehicle Safety Compliance (DAA-0416-2019-0004).

10. Administrative Office of the United States Courts, United States Bankruptcy Court, Electronic Case Files (DAA-0578-2018-0001).

11. American Battle Monuments Commission, Agency-wide, Engineering and Construction (DAA-0117-2023-0002).

12. American Battle Monuments Commission, Agency-wide, History, Education and Public Programs (DAA-0117-2023-0010).

13. Peace Corps, Volunteer Recruitment and Selection, Master's International and Fellows Photographs and Authorizations (DAA-0490-2023-0004).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2024-12173 Filed 6-3-24; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: *Gathering Community Spotlights To Highlight Efforts of Local Practitioners To Improve Information Literacy: Collection Process To Populate Community Spotlights*

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of

collection requirements on respondents can be properly assessed. The purpose of this proposed information collection is to gather Community Spotlights from local practitioners known to be successfully building information literacy in their communities and to publish the Community Spotlights on *InformationLiteracy.gov* for *Gathering Community Spotlights to Highlight Efforts of Local Practitioners to Improve Information Literacy: Collection Process to Populate Community Spotlights*. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 4, 2024.

ADDRESSES: Send comments to Julie Balutis, Director of Grants Policy and Management, Office of Grants Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024-2135. Ms. Balutis can be reached by telephone: 202-653-4645, or by email at jbalutis@imls.gov. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except federal holidays. Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202-207-7858 via 711 for TTY-Based Telecommunications Relay Service.

FOR FURTHER INFORMATION CONTACT: Katherine Maas, Chief of Staff, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024-2135. Ms. Maas can be reached by telephone at 202-653-4798, or by email at infolit@imls.gov. Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202-207-7858 via 711 for TTY-Based Telecommunications Relay Service.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in public comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic,

mechanical, or other technological collection techniques, or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

I. Background

IMLS is the primary source of federal support for the Nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit www.imls.gov.

II. Current Actions

IMLS, in conjunction with the Information Literacy Taskforce (Taskforce), is leading an initiative to develop guidance, instructional materials, and national strategies on Information Literacy. IMLS seeks to gather Community Spotlights from their network of local practitioners known to be successfully building information literacy in their communities and to publish the Community Spotlights on *InformationLiteracy.gov*. This network of local practitioners includes IMLS grantees, Taskforce member agency grantees, and knowledge sharing cohort members and recruitment lists. IMLS is seeking approval to gather information from 3 organizations per quarter. All participation is strictly voluntary.

Agency: Institute of Museum and Library Services.

Title: Gathering Community Spotlights to Highlight Efforts of Local Practitioners to Improve Information Literacy: Collection Process to Populate Community Spotlights.

OMB Control Number: 3137-NEW.

Agency Number: 3137.

Respondents/Affected Public: IMLS will seek to collect Community Spotlights from grantees, Taskforce member agency grantees, and knowledge sharing cohort members and recruitment lists. Examples of practitioners doing this work are museum workers and librarians.

Total Estimated Number of Annual Respondents: 75.

Frequency of Response: Once per request.

Estimated Average Time Burden per Response: 50 minutes.

Total Estimated Number of Annual Burden Hours: 45.

Total Annual Cost Burden: \$1,508.40.

Total Annual Federal Costs: \$41,762.88.

Public Comments Invited: Comments submitted in response to this Notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: May 30, 2024.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2024-12242 Filed 6-3-24; 8:45 am]

BILLING CODE 7036-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 21 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference or videoconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are eastern time and ending times are approximate.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from David Travis, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; travisd@arts.gov, or call 202-682-5001.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chair of March 11, 2022, these sessions will be closed to the public pursuant to 5 U.S.C. 10.

The upcoming meetings are:
Musical Theater (review of applications): This meeting will be closed.

Date and time: July 9, 2024; 1:00 p.m. to 3:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 9, 2024; 4:00 p.m. to 6:00 p.m.

Museums (review of applications): This meeting will be closed.

Date and time: July 10, 2024; 11:30 a.m. to 1:30 p.m.

Museums (review of applications): This meeting will be closed.

Date and time: July 10, 2024; 2:30 p.m. to 4:30 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 11, 2024; 1:00 p.m. to 3:00 p.m.

Museums (review of applications): This meeting will be closed.

Date and time: July 11, 2024; 2:30 p.m. to 4:30 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 11, 2024; 4:00 p.m. to 6:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: July 12, 2024; 11:30 a.m. to 1:30 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: July 12, 2024; 2:30 p.m. to 4:30 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 16, 2024; 1:00 p.m. to 3:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 16, 2024; 4:00 p.m. to 6:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 18, 2024; 1:00 p.m. to 3:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 18, 2024; 4:00 p.m. to 6:00 p.m.

Research Grants in the Arts (review of applications): This meeting will be closed.

Date and time: July 23, 2024; 10:00 a.m. to 12:00 p.m.

Research Grants in the Arts (review of applications): This meeting will be closed.

Date and time: July 23, 2024; 1:00 p.m. to 3:00 p.m.

Musical Theater (review of applications): This meeting will be closed.

Date and time: July 25, 2024; 1:00 p.m. to 3:00 p.m.

Research Grants in the Arts (review of applications): This meeting will be closed.

Date and time: July 26, 2024; 10:00 a.m. to 12:00 p.m.

Research Grants in the Arts (review of applications): This meeting will be closed.

Date and time: July 26, 2024; 2:00 p.m. to 4:00 p.m.

Research Grants in the Arts (review of applications): This meeting will be closed.

Date and time: July 29, 2024; 2:00 p.m. to 4:00 p.m.

Folk & Traditional Arts (review of applications): This meeting will be closed.

Date and time: July 30, 2024; 2:00 p.m. to 4:00 p.m.

Folk & Traditional Arts (review of applications): This meeting will be closed.

Date and time: July 31, 2024; 2:00 p.m. to 4:00 p.m.

Dated: May 30, 2024.

David Travis,

Specialist, National Endowment for the Arts.

[FR Doc. 2024–12243 Filed 6–3–24; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

National Council on the Arts 213th Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that a meeting of the National Council on the Arts will be held open to the public for in-person attendance as well as by videoconference. Additional sessions will be closed to the public for reasons stated below.

DATES: See the **SUPPLEMENTARY INFORMATION** section for meeting time, location, and date. The meeting is located in the eastern time zone and the ending time is approximate.

ADDRESSES: The National Endowment for the Arts, Constitution Center, 400 Seventh Street SW, Washington, DC 20560. Public portions of this meeting will be held in-person and by videoconference at the location specified in the **SUPPLEMENTARY INFORMATION** section of this notice. Please see arts.gov for the most up-to-date information.

FOR FURTHER INFORMATION CONTACT: Liz Auclair, Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682–5744.

SUPPLEMENTARY INFORMATION: The meeting will take place on June 27 and 28, 2024 in Columbus, Ohio. The meeting on June 28, 2024, from 11:30 a.m. to 1 p.m., will be open to the public. If, in the course of the open session discussion, it becomes necessary

for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the March 11, 2022 determination of the Chair. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b. Meeting sessions that occur on June 27, 2024, will be closed to the public for the aforementioned reasons.

Detailed Meeting Information:

Closed Session: June 27, 2024; 1:00 p.m. to 4:00 p.m. Location: Marriott Renaissance Columbus Downtown Hotel, 50 North Third Street, Columbus, OH 43215, followed by site visits to area arts venues.

Open Session: June 28, 2024; 11:30 a.m. to 1:00 p.m. Location: Lincoln Theatre, 769 East Long Street, Columbus, OH 43203. There will be opening remarks and voting on recommendations for grant funding and rejection and updates from NEA Chair Maria Rosario Jackson. This session will be held open to the public for in-person attendance and by videoconference. To view the webcasting of this open session of the meeting, go to: <https://www.arts.gov/>. If you need special accommodations due to a disability, please contact Beth Bienvenu, Office of Accessibility, National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506, 202/682–5733, Voice/T.T.Y. 202/682–5496, at least seven (7) days prior to the meeting.

Dated: May 30, 2024.

Daniel Beattie,

Director, Office of Guidelines and Panel Operations.

[FR Doc. 2024–12196 Filed 6–3–24; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board hereby gives notice of the scheduling of a teleconference of the National Science Board/National Science Foundation Commission on Merit Review (MRX) for the transaction of National Science Board business pursuant to the NSF Act and the Government in the Sunshine Act.

TIME AND DATE: Thursday, June 6, 2024, from 5:00 p.m.–6:00 p.m. EDT.

PLACE: This meeting will be via videoconference through the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda is: Commission Chair's remarks about the agenda; Discussion of External Data Collection Questions; Commission Chair's closing remarks.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, cblair@nsf.gov, 703/292–7000. Meeting information and updates may be found at www.nsf.gov/nsb.

Ann E. Bushmiller,

Senior Counsel to the National Science Board Office.

[FR Doc. 2024–12275 Filed 5–31–24; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–0320; NRC–2024–0099]

TMI–2SOLUTIONS, LLC.; Three Mile Island Nuclear Station, Unit No. 2; Draft Environmental Assessment and Draft Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability; request for comment; issuance of programmatic agreement.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft environmental assessment (EA) and draft finding of no significant impact (FONSI) for a proposed amendment of NRC Possession Only License (POL) No. DPR–73 for the Three Mile Island Nuclear Station, Unit No. 2 (TMI–2), located in Londonderry Township, Dauphin County, Pennsylvania. The proposed amendment would ensure that TMI–2 Energy Solutions (TMI–2Solutions) can continue decommissioning the facility in accordance with NRC regulations. TMI–2Solutions will be engaging in certain major decommissioning activities, including the physical demolition of buildings previously deemed eligible for the National Register of Historic Places (NRHP). The draft EA, “Environmental Assessment for Specific Decommissioning Activities at Three Mile Island, Unit 2 in Dauphin County, Pennsylvania,” documents the NRC staff's environmental review of the license amendment application. The

NRC is also issuing a final Programmatic Agreement (PA) under section 106 of the National Historic Preservation Act (NHPA).

DATES: Submit comments on the draft EA by July 5, 2024. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2024–0099. Address questions about Docket IDs 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.

- *Email comments to:* TMI2Environmental@nrc.gov.

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: Jean Trefethen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–0867; email: Jean.Trefethen@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0099 when contacting the NRC about the availability of information regarding this action. You may obtain publicly available information related to this action by the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2024–0099.

- *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.

- *NRC’s Public Project Website:* Information related to the TMI–2 project can be accessed on NRC’s TMI–2 public website at <https://www.nrc.gov/info-finder/decommissioning/power-reactor/three-mile-island-unit-2.html>, under the section titled “2.0 Site Status Summary,” scroll down to “Environmental Review of Cultural and Historic Resource Impacts from Decommissioning Activities” and click on Environmental Assessment (EA), Draft Report for Comment.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2024–0099 in the subject line of 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. Background

The Three Mile Island Nuclear Station (TMINS) is approximately 16 kilometers (10 miles) southeast of Harrisburg, Pennsylvania. The TMINS site includes Three Mile Island Nuclear Station, Unit 1 (TMI-1) and TMI-2. It encompasses approximately 178 hectares (440 acres), including the adjacent islands on the north end, a strip of land on the mainland along the eastern shore of the river, and an area on the eastern shore of Shelley Island. The TMINS site has significance in U.S. history because it is the site of the nation’s most serious commercial nuclear power plant accident, occurring at TMI–2. On March 28, 1979, TMI–2 experienced an accident initiated by interruption of secondary feedwater flow which led to a core heat up that caused fuel damage. The partial meltdown of the reactor core led to a very small offsite release of radioactivity. In response to this accident many changes occurred at nuclear power plants including emergency response planning, reactor operator training, human factors engineering, radiation protection, and heightened NRC regulatory oversight.

III. Introduction

By letter dated February 22, 2023 (ADAMS Accession No. ML23058A064), TMI–2Solutions requested an amendment to POL No. DPR–73. TMI–2Solutions will be engaging in certain major decommissioning activities, including the physical demolition of buildings previously deemed eligible for the NRHP. Because the impacts on the historic properties from these decommissioning activities have not been previously evaluated and are not bounded by the impact’s discussion in NUREG–0586, “Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities,” TMI–2Solutions requested an amendment that would require evaluation of the impacts of the decommissioning activities on the NRHP-eligible properties, in compliance with paragraph 50.82(a)(6)(ii) of title 10 of the *Code of Federal Regulations* (10 CFR).

Pursuant to 36 CFR 800.8, the NRC is using its National Environmental Policy Act process for developing the environmental assessment (EA) to facilitate consultation pursuant to section 106 of the NHPA.

Adverse effects to historic properties would result from decommissioning activities at TMI–2. Therefore, the NRC and consulting parties proceeded with development of a PA to resolve adverse effects. On March 6, 2024 (89 FR 16037)

the draft PA was issued for public review and comment. One comment was received and considered before finalizing the PA. The final PA (ADAMS Accession No. ML24117A258) addresses the potential direct and indirect adverse effects from the decommissioning activities and ensures that appropriate mitigation measures are implemented. The NRC is issuing the final PA, which therefore, concludes NHPA Section 106 consultation.

In accordance with NRC's regulations in 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," that implement the National Environment Protection Agency (NEPA), the NRC staff has prepared a draft EA documenting its environmental review of the license amendment application. Based on the environmental review, the NRC has made a preliminary determination that the proposed action will not significantly affect the quality of the human environment and that a FONSI is therefore appropriate. By this notice, the NRC is requesting public comment on the draft FONSI and supporting draft EA.

IV. Summary of Draft Environmental Assessment

The draft EA is publicly available in ADAMS under Accession No. ML24117A224. A summary description of the proposed action and expected environmental impacts is provided as follows.

Description of the Proposed Action

The proposed action is to amend POL No. DPR-73 so that TMI-2 *Solutions* can continue with certain major decommissioning activities planned under Phase 2 of its decommissioning schedule. Phase 2 decommissioning activities include the removal of any radioactive components in preparation for demolition of structures, decommissioning and dismantlement of the TMI-2 site to a level that permits the release of the site, except for an area potentially to be set aside for storage of fuel-bearing material (small quantities of spent nuclear fuel, damaged core material, and high-level waste) on the independent spent fuel storage installation, backfilling of the site, license termination plan submittal and implementation, and site restoration activities. In order to comply with 10 CFR 50.82(a)(6)(ii), TMI-2 *Solutions* requested that NRC evaluate the impacts of certain major decommissioning activities on historic and cultural resources and NRHP-eligible properties. The definition of major

decommissioning activity is in 10 CFR 50.2, which states "Major decommissioning activity means, for a nuclear power reactor facility, any activity that results in permanent removal of major radioactive components, permanently modifies the structure of the containment, or results in dismantling components for shipment containing greater than class C waste in accordance with § 61.55 of this chapter." Due to radioactive contamination, the TMI-2 structures must be demolished and removed during decommissioning.

Environmental Impacts of the Proposed Action

In the draft EA, the staff assessed the potential environmental impacts from the proposed license amendment to the following resource areas: land use; visual and scenic resources; the geologic environment; surface and groundwater resources; ecological resources; air quality; noise; historic and cultural resources; socioeconomic conditions; environmental justice; public and occupational health; transportation; and waste generation and management. The NRC staff also considered the cumulative impacts from past, present, and reasonably foreseeable actions when combined with the proposed action. The TMI-2 Historic District would be adversely affected by the TMI-2 decommissioning, and adverse effects cannot be avoided. The mitigation of adverse effects to the TMI-2 Historic District will be completed in accordance with the TMI-2 Demolition and Decommissioning Programmatic Agreement (NRC 2024a).

As part of the NRC's consultation under Section 7 of the Endangered Species Act, the NRC staff determined that the proposed action may affect, but is not likely to adversely affect, the Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), tricolored bat (*Perimyotis subflavus*), monarch butterfly (*Danaus plexippus*), northeastern bulrush (*Scirpus ancistrochaetus*), or green floater (*Lasmigona subviridis*). The NRC staff transmitted an email to the U.S. Fish and Wildlife Service for its review and concurrence on May 24, 2024 (ADAMS Accession No. ML24120A324).

All other potential impacts from the proposed action were determined to not be significant, as described in the draft EA. The NRC staff found that there would be no significant negative cumulative impact to any resource area from the proposed action when added to other past, present, and reasonably foreseeable actions.

Environmental Impacts of the Alternative to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Under the no-action alternative, the NRC would deny the licensee's request for an amendment to allow for the continuation of major decommissioning activities under Phase 2. In this case, the NRC staff would not review the historic and cultural resource impacts of the major decommissioning activities as defined in 10 CFR 50.2 and would therefore disallow the removal of NRHP-eligible structures and any impacts to historic and cultural resources. However, due to the presence of radioactive contamination, TMI-2 structures, including the NRHP-eligible structures, must be removed during the decommissioning process. Therefore, the NRC staff concludes that denying the amendment request is not a reasonable alternative.

V. Draft Finding of No Significant Impact

In accordance with the NEPA and 10 CFR part 51, the NRC staff has conducted an environmental review of a request for an amendment to POL No. DPR-73. The proposed amendment would revise POL No. DPR-73 to allow the licensee to conduct decommissioning at TMI-2 covering activities that were not previously addressed in the staff's environmental assessments (site-specific historical and cultural resources). Based on its environmental review of the proposed action, as documented in the draft EA, the NRC staff has preliminarily determined that granting the requested license amendment would not significantly affect the quality of the human environment. Therefore, the NRC staff has preliminarily determined, pursuant to 10 CFR 51.31, that preparation of an environmental impact statement is not required for the proposed action and a FONSI is appropriate. Pursuant to 10 CFR 51.33(a), the NRC staff is making the draft FONSI and draft EA available for public review and comment.

Dated: May 29, 2024.

For the Nuclear Regulatory Commission.

Robert Sun,

Chief, Environmental Project Management Branch 2, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety, and Safeguards.

[FR Doc. 2024-12129 Filed 6-3-24; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION**[Docket No. 50–613; NRC–2024–0078]****US SFR Owner, LLC.; Kemmerer Power Station, Unit 1; Construction Permit Application****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Acceptance for docketing, opportunity to request a hearing and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has accepted for review and docketed an application from US SFR Owner, LLC (USO) for a construction permit for the Kemmerer Power Station, Unit 1 reactor to be built in Lincoln County, Wyoming. In addition, the NRC is providing notice that an uncontested hearing will be held on the USO construction permit application at a time and place to be set in the future by the presiding officer for the uncontested hearing. This notice also provides the public an opportunity to request a hearing and petition for leave to intervene (*i.e.*, contested hearing) with respect to that application. The NRC staff is currently conducting a detailed technical review of the construction permit application. If the NRC issues a construction permit, the applicant, USO, would be authorized to construct its proposed reactor in accordance with the provisions of the construction permit. Because the application contains Sensitive Unclassified Non-Safeguards Information (SUNSI), this notice includes an order that imposes procedures to obtain access to SUNSI for contention preparation.

DATES: The application was docketed on May 21, 2024. A request for a hearing or petition for leave to intervene must be filed by August 5, 2024. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to SUNSI is necessary to respond to this notice must request document access by June 14, 2024.

ADDRESSES: Please refer to Docket ID NRC–2024–0078 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–2024–0078. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann;

telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (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.

- *NRC's Public Website:* The construction permit application is available under the NRC's Kemmerer Power Station, Unit 1, Construction Permit Application public website at <https://www.nrc.gov/reactors/new-reactors/advanced/who-were-working-with/applicant-projects/terrapower.html>.

FOR FURTHER INFORMATION CONTACT:

Mallecia Sutton, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0673, email: Mallecia.Sutton@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Discussion**

By letter dated March 28, 2024 (ADAMS Package Accession No. ML24088A059), TerraPower, LLC (TerraPower), on behalf of US SFR Owner, LLC (USO), a wholly owned subsidiary of TerraPower, submitted, pursuant to 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities," a construction permit application that proposes to construct a non-light water reactor (a "non-light water reactor" as defined in 10 CFR 50.2). A notice of receipt and availability of USO's application was published in the **Federal Register** on May 14, 2024 (89 FR 42004). Along with other documents, the ADAMS package includes the transmittal letter (ADAMS

Accession No. ML24088A060), the preliminary safety analysis report (ADAMS Accession No. ML24088A065), and the environmental report (ADAMS Accession No. ML24088A072). The application was supplemented on May 2, 2024 (ADAMS Accession Nos. ML24123A242 and ML24123A243) and May 9, 2024 (ADAMS Accession No. ML24130A181).

The NRC is considering issuance of a construction permit to USO that would authorize construction of the proposed reactor, identified as Kemmerer Power Station Unit 1, to be located in Lincoln County, Wyoming. The reactor would be a metal fueled, pool-type Sodium Fast Reactor (SFR).

The USO construction permit application consists of the following information:

- The general information required by 10 CFR 50.33;
- The Preliminary Safety Analysis Report required by 10 CFR 50.34(a);
- The Environmental Report required by 10 CFR 51.50; and
- Exemption requests to support issuance of a construction permit.

The NRC staff determined that the USO application is complete and acceptable for docketing in accordance with 10 CFR 2.101(a) and 10 CFR part 50 and assigned the Docket Number 50–613. The NRC staff provided USO notice of the acceptance and docketing determination by letter dated May 21, 2024 (ADAMS Accession No. ML24135A109).

The NRC staff will perform a detailed technical review of the construction permit application and document its safety findings in a safety evaluation report. Also, in accordance with 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," the NRC staff will complete an environmental review for the proposed action.

Docketing of the application does not preclude the NRC staff from requesting additional information from the applicant as the review proceeds, nor does it predict whether the Commission will grant or deny the application. The construction permit application will be referred to the Advisory Committee on Reactor Safeguards for review and report consistent with 10 CFR 50.58, "Hearings and report of the Advisory Committee on Reactor Safeguards." If the Commission finds that the construction permit application meets the applicable standards of the Atomic Energy Act of 1954, as amended and the Commission's regulations, and that any required notifications to other agencies and bodies have been made, the Commission will issue a construction

permit, in the form and containing conditions and limitations that the Commission finds appropriate and necessary.

II. Hearing

Pursuant to the Atomic Energy Act of 1954, as amended, 10 CFR part 2, “Agency Rules of Practice and Procedure,” and 10 CFR part 50, notice is hereby given that an uncontested (*i.e.*, mandatory) hearing will be held, at a time and place to be set in the future by the presiding officer for the uncontested hearing.

III. 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 this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission’s “Agency Rules of Practice and Procedure” in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of 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 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized 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>.

IV. 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/esubmittals.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-refmat.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 timestamps 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/esubmittals.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, excluding government 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 described above, 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.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Licensing, Hearings, and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email addresses for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov*¹ respectively. The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the

potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2), the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order² setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly

stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.³

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order

³ Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

¹ While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

² Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.
Dated: May 29, 2024.

For the Nuclear Regulatory Commission.
Carrie Safford,
Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of Federal Register notice of hearing or opportunity for hearing, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Agreement or Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement or Affidavit for SUNSI.
A	If access granted: issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Agreements or Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or notice of opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2024–12154 Filed 6–3–24; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 99902100; NRC–2024–0078]

US SFR Owner, LLC.; Construction Permit Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing public notice each week for four consecutive weeks of receipt and availability of an application for a construction permit for a single unit reactor facility from US SFR Owner, LLC, a wholly owned subsidiary of TerraPower, LLC. The application for the construction permit was received on March 28, 2024, and a supplement to the application was submitted on May 2, 2024.
DATES: June 4, 2024.

ADDRESSES: Please refer to Docket ID NRC–2024–0078 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–2024–0078. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (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.

FOR FURTHER INFORMATION CONTACT: Mallecia Sutton, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0673, email: Mallecia.Sutton@nrc.gov.

I. Discussion

On March 28, 2024, TerraPower, LLC (TerraPower), on behalf of US SFR

Owner, LLC., a wholly owned subsidiary of TerraPower, filed an application for a construction permit for a single-unit power reactor facility located in Lincoln County, Wyoming, pursuant to section 103 of the Atomic Energy Act, as amended, and part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), “Domestic Licensing of Production and Utilization Facilities.” The single-unit facility is to be identified as Kemmerer Power Station, Unit 1 and would be based on the TerraPower and General Electric-Hitachi Sodium reactor design which is a pool-type sodium fast reactor using metal fuel.

The application submitted on March 28, 2024, is available in ADAMS under Package Accession No. ML24088A059. Along with other documents, the ADAMS package includes the transmittal letter (ADAMS Accession No. ML24088A060), the preliminary safety analysis report (ADAMS Accession No. ML24088A065), and the environmental report (ADAMS Accession No. ML24088A072). The application was supplemented on May 2, 2024 (ADAMS Accession No. ML24123A242). The information submitted by the applicant includes

certain administrative information submitted pursuant to 10 CFR 50.33, such as on financial qualifications; technical information submitted pursuant to 10 CFR 50.34; and the environmental report submitted pursuant to 10 CFR part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.” These notices are being provided in accordance with the requirements in 10 CFR 50.43(a)(3).

The NRC staff is currently undertaking its acceptance review of the application. If the application is accepted for docketing, a subsequent **Federal Register** notice will be issued that addresses the acceptability of the construction permit application for docketing and provisions for participation of the public in the permitting process.

Dated: May 13, 2024.

For the Nuclear Regulatory Commission.
Mallecia A. Sutton,
Senior Project Manager, Advanced Reactor Licensing Branch 1, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2024–10729 Filed 6–3–24; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on June 17, 2024 to discuss the ACMUI’s subcommittee report on the NRC staff’s proposed changes to NRC’s requirements for medical use of byproduct material to address reporting of nuclear medicine injection extravasations as medical events. Meeting information, including a copy of the agenda and handouts, will be available on the ACMUI’s Meetings and Related Documents web page at <https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2024.html> or by emailing Ms. L. Armstead at the contact information below.

DATES: June 17, 2024, from 2:00 p.m. to 4:00 p.m. Eastern Time.

ADDRESSES: This is a virtual meeting.

Date	Webinar information (Microsoft Teams)
June 17, 2024	Link: https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZTQ4MWlwYjctYmFiYi00ZDJlTgzZWUtMTEzZGUzYThlMjA0%40thread.v2/0?context=%7b%22Tid%22%3a%22e8d01475-c3b5-436a-a065-5def4c64f52e%22%2c%22Oid%22%3a%22304f46bf-32c2-4e0f-912c-878db895e74a%22%7d. Meeting ID: 225 263 585 84. Passcode: uGphXp. Call in number (audio only): +301–576–2978, United States, Silver Spring. Phone Conference ID: 558 124 30#.

Public Participation: The meeting will be held using Microsoft Teams. Any member of the public who wishes to participate in the meeting via Microsoft Teams or via phone can use the information provided above or should contact Ms. L. Armstead. Members of the public should also monitor the NRC’s Public Meeting Schedule at <https://www.nrc.gov/pmns/mtg> for any meeting updates.

FOR FURTHER INFORMATION CONTACT: Ms. L. Armstead, email: lsa5@nrc.gov, telephone: 301–415–1650.

SUPPLEMENTARY INFORMATION:

Conduct of the Meeting

The ACMUI Chair, Dr. Hossein Jadvar will preside over the meeting. Dr. Jadvar will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. L. Armstead using the contact information listed above. All submittals must be received by the close of business on June 11, 2024, and must only pertain to the topics on the agenda.

2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the ACMUI Chair.

3. The draft transcript and meeting summary will be available on ACMUI’s website <https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2024.html> on or about July 31, 2024.

4. Persons who require special services, such as those for the hearing impaired, should notify Ms. L. Armstead of their planned participation.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section

161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission’s regulations in Title 10 of the *Code of Federal Regulations*, Part 7.

Dated at Rockville, Maryland, this 29th day of May, 2024.

For the U.S. Nuclear Regulatory Commission.

Russell E. Chazell,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–12103 Filed 6–3–24; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–324 and CP2024–332; MC2024–325 and CP2024–333; MC2024–326 and CP2024–334; MC2024–327 and CP2024–335; MC2024–328 and CP2024–336]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 6, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s)

in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s):* MC2024-324 and CP2024-332; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 81 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 29, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 6, 2024.

2. *Docket No(s):* MC2024-325 and CP2024-333; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 82 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 29, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 6, 2024.

3. *Docket No(s):* MC2024-326 and CP2024-334; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 38 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 29, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* June 6, 2024.

4. *Docket No(s):* MC2024-327 and CP2024-335; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 83 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 29, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Almaroof Agoro; *Comments Due:* June 6, 2024.

5. *Docket No(s):* MC2024-328 and CP2024-336; *Filing Title:* USPS Request

to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 84 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 29, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Almaroof Agoro; *Comments Due:* June 6, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2024-12200 Filed 6-3-24; 8:45 am]

BILLING CODE 7710-FW-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Advisers Act Release No. 6617; File No. 803-00265]

Jeffrey Management Company; Notice of Application

May 30, 2024.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice.

Notice of application for an exemptive order under the Investment Advisers Act of 1940 (the "Advisers Act").

Applicant: Jeffrey Management Company (the "Applicant").

Relevant Advisers Act Sections: Exemption requested under Section 202(a)(11)(H) of the Advisers Act from Section 202(a)(11) of the Advisers Act.

Summary of Application: The Applicant requests that the Commission issue an order declaring the Applicant to be a person not within the intent of Section 202(a)(11) of the Advisers Act, which defines the term "investment adviser."

Filing Dates: The application was filed on September 26, 2023, and amended on March 18, 2024, April 9, 2024 and April 22, 2024.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at Secretaries-Office@sec.gov and serving the Applicant with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on June 24, 2024, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0-5 under the Advisers Act, hearing requests should state the nature of the writer's interest, any facts

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested.

Persons may request notification of a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission:

Secretarys-Office@sec.gov. Applicant: Jeffrey Management Company, c/o Kerry Houghton, at *khoughton@jeffreyc.com* and Dan L. Jaffe, Vorys, Sater, Seymour and Pease LLP, at *DLJaffe@vorys.com*.

FOR FURTHER INFORMATION CONTACT:

Matthew Cook, Senior Counsel, or Marc Mehrespand, Branch Chief, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The

following is a summary of the application. The complete application may be obtained via the Commission's website either at <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html> or by calling the SEC's Public Reference Room at (202) 551-8090.

Applicant's Representations

1. In April 2017, Jeffrey LLC, a Delaware limited liability company ("Jeffrey LLC") obtained an order from the Commission under Section 6(c) of the Investment Company Act (the "Investment Company Act") exempting Jeffrey LLC from all provisions of the Investment Company Act and all rules and regulations thereunder.¹ The Jeffrey LLC Order, in part, permitted Jeffrey LLC, a private investment company wholly owned and controlled by a single family, to exceed 100 beneficial owners. The family members at issue are the descendants of Joseph A. Jeffrey (1836–1928) ("J.A. Jeffrey").

2. At the same time, Jeffrey LLC's family office entities, Katahdin Asset Management LLC, a Delaware limited liability company ("Katahdin"), and The Jeffrey Company, an Ohio corporation ("TJC"), obtained exemptive orders from the Commission under Section 202(a)(11)(H) of the Advisers Act.² These exemptive orders were sought to permit each of Katahdin and TJC to advise Jeffrey LLC, which, once it exceeded the 100 beneficial owner limitation of Section 3(c)(1) of the Investment Company Act, would no

longer meet the definition of Family Client under Rule 202(a)(11)(G)–1(d)(4) under the Advisers Act (the "Family Office Rule"), without potentially losing their respective statuses as family offices for purposes of the Family Office Rule.³ In 2020, Katahdin underwent a statutory conversion (the "Conversion") into Jeffrey Fiduciary Company, an Ohio Corporation and private trust company ("JFC").⁴

3. Each of Jeffrey LLC, JFC (as the successor by conversion to Katahdin) and TJC continues to meet all the conditions imposed under their respective exemptive orders.

4. The Applicant, an Ohio corporation, was formed on September 7, 2023 as an initial step in a proposed Restructuring (as defined below), involving management services provided by JFC to TJC and Jeffrey LLC. The Applicant is a wholly-owned subsidiary of TJC. The Applicant is governed by TJC, in TJC's capacity as the sole shareholder of the Applicant, and by the Applicant's sole corporate director and president.

5. For business reasons, TJC's Board of Directors (the "Board") is proposing an affiliate restructuring in which all JFC employees would be transferred to the Applicant (the "Restructuring"). As part of the Restructuring, all JFC employees would be transferred to the Applicant, which will provide certain services. Specifically, after the Restructuring, the Applicant would provide advisory and non-advisory services to Jeffrey LLC, TJC and JFC, with the Applicant's own employees, pursuant to management agreements and subject to the direction of the Board. The Applicant seeks an exemptive order to enable it to operate generally in the same manner as JFC currently operates.

6. The Applicant represents that (i) each of the persons to be served by the Applicant would be a Family Client, *i.e.*, the Applicant would have no investment advisory clients other than Family Clients as required by paragraph (b)(1) of the Family Office Rule (with the possible exception of Jeffrey LLC), (ii) the Applicant is wholly-owned by TJC, a Family Client, and is exclusively controlled by TJC, in TJC's capacity as

the sole shareholder of the Applicant, and by the Applicant's sole corporate director and president, Kerry J. Houghton, a Family Member, as required by paragraph (b)(2) of the Family Office Rule, and (iii) the Applicant does not hold itself out to the public as an investment adviser as required by paragraph (b)(3) of the Family Office Rule.

7. The Applicant represents that, once the Restructuring occurs, the Applicant would have a "client" (Jeffrey LLC) that, to the extent Jeffrey LLC has exceeded (or in the future exceeds) the 100 beneficial owner limitation of Section 3(c)(1) of the Investment Company Act, no longer would qualify as a Family Client.

Applicant's Legal Analysis

1. Section 202(a)(11) of the Advisers Act defines the term "investment adviser" to mean "any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities."

2. Absent the requested order, the Applicant would fall within the definition of "investment adviser" under Section 202(a)(11) of the Advisers Act. Although the Family Office Rule provides an exclusion from the definition of investment adviser, the Family Office Rule requires that all "clients" be Family Clients. Once the Restructuring occurs, however, the Applicant would have a "client" (Jeffrey LLC) that, to the extent it has exceeded (or in the future exceeds) the 100 beneficial owner limitation of Section 3(c)(1) of the Investment Company Act, no longer would qualify as a Family Client. The Applicant does not qualify for any of the exemptions from registration as an investment adviser set forth in Section 203(b) of the Advisers Act and, because the Applicant has regulatory assets under management of more than \$110 million, the Applicant is not prohibited from registering with the Commission under Section 203A(a) of the Advisers Act. Therefore, absent relief, the Applicant would be required to register as an investment adviser under Section 203(a) of the Advisers Act.

3. The Applicant submits that, if the Restructuring occurs, the Applicant's clients will be TJC and JFC, each of which is a Family Client, in addition to Jeffrey LLC (which is already a client of JFC). The Applicant further submits

¹ Jeffrey LLC, Investment Company Act Release 32526 (March 7, 2017) (notice), and Investment Company Act Release 32590 (April 4, 2017) (order) ("Jeffrey LLC Order").

² Katahdin Asset Management LLC, Investment Advisers Act Release 4660 (March 7, 2017) (notice) and Investment Advisers Act Release 4680 (April 4, 2017) (order), and The Jeffrey Company, Investment Advisers Act Release 4659 (March 7, 2017) (notice) and Investment Advisers Act Release 4681 (April 4, 2017) (order).

³ Unless otherwise defined herein, capitalized terms have the same meaning as defined in the Family Office Rule.

⁴ The Applicant represents that, under applicable state law, the Conversion had the following effects, among others: (i) Katahdin was continued in JFC; (ii) Katahdin as a Delaware limited liability company ceased to exist; and (iii) all assets and liabilities of Katahdin continued in JFC. All of the Katahdin employees continued with JFC as well, such that JFC became the successor of Katahdin in law and in fact.

that, in the event Jeffrey LLC were to exceed the 100 beneficial owner limitation of Section 3(c)(1) of the Investment Company Act, the Applicant's relationship with Jeffrey LLC would not change the nature of the Applicant into that of a commercial advisory firm. In support of this argument, the Applicant notes that Jeffrey LLC would continue to be held entirely by Family Clients, and the Applicant would continue not to hold itself out to the public as an investment adviser. The Applicant represents that Jeffrey LLC would continue to be managed and controlled by TJC, which in turn is managed by the Board, a majority of the members of which are Family Members.

4. The Applicant states that, in requesting the order, the Applicant is not attempting to expand its operations or engage in any level of commercial activity to which the Advisers Act is designed to apply. Further, Jeffrey LLC has received from the Commission an order exempting Jeffrey LLC from all of the provisions of the Investment Company Act and all rules and regulations thereunder, under conditions that include: (a) that interests in Jeffrey LLC have not been and will not be offered or sold to the public, and that Jeffrey LLC will neither admit as a new investor, nor permit the assignment or transfer of any interest in Jeffrey LLC to, any individual or entity that is not a Family Client; (b) Jeffrey LLC at all times will be controlled by Family Members and/or "family entities" (as defined under the Family Office Rule) that are Family Clients; and (c) a majority of the board of directors of Jeffrey LLC will consist of Family Members, with limited exception.

5. The Applicant also submits that there is no public interest in requiring the Applicant to be registered under the Advisers Act. The Applicant is a private organization that was formed to be the new "family office" for the descendants of J.A. Jeffrey. If the Restructuring occurs, the Applicant's sole clients will be Jeffrey LLC, TJC and JFC; and the Applicant will have no clients other than Family Clients. The Applicant represents that such services would not change or be affected in the event Jeffrey LLC were to exceed the 100 beneficial owner limitation of Section 3(c)(1) of the Investment Company Act. In addition, the provision of the advisory services described above to the Family Clients described above does not create any public interest that would require the Applicant to be registered under the Advisers Act that is different in any manner from the considerations that apply to a "family office" that complies

in all respects with the Family Office Rule.

6. The Applicant argues that, although the Family Office Rule largely codified the exemptive orders that the Commission had previously issued before the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Commission recognized in proposing the Family Office Rule that the exact representations, conditions, or terms contained in every exemptive order could not be captured in a rule of general applicability. The Commission noted that family offices would remain free to seek a Commission exemptive order to advise an individual or entity that did not meet the proposed "family client" definition, and stated that certain issues would be more appropriately addressed through an application seeking an exemptive order than through a rule of general applicability.

7. The Applicant notes that, in addition to the exemptive orders issued to Katahdin and TJC, the Commission has issued other orders subsequent to the adoption of the Family Office Rule, and that each of those orders treated the applicant as a Family Office even though the applicant was providing advisory services to persons who did not fall within the definition of "Family Client." The Applicant states that, in this case, the Restructuring would move the locus of the principal family office to a new entity, the Applicant, without changing any of the material facts that were the subject of the order issued to Katahdin (as well as the order issued to TJC). Specifically, the Applicant will provide services to one or more Family Clients that are currently Family Clients for which Katahdin's successor, JFC, provides services, except that (a) the Applicant also will provide services to JFC (a Family Client) and (b) one of the Applicant's clients, Jeffrey LLC, relies, or may rely, on the Jeffrey LLC Order.

8. For the foregoing reasons, the Applicant requests an order declaring it to be a person not within the intent of Section 202(a)(11) of the Advisers Act. The Applicant submits that the order is necessary and appropriate, in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Advisers Act.

Applicant's Conditions

1. The Applicant will offer and provide services only to: (i) Jeffrey LLC, which will generally be deemed to be, and treated as if it were, a Family Client, and (ii) other Family Clients.

2. The Applicant at all times will be wholly owned by Family Clients and exclusively controlled (directly or indirectly) by one or more Family Members and/or Family Entities as defined in paragraph (d)(5) of the Family Office Rule.

3. Jeffrey LLC at all times will be wholly owned by Family Clients.

4. At all times the assets beneficially owned by Family Members and/or Family Entities (including assets beneficially owned by Family Members and/or Family Entities indirectly through Jeffrey LLC) will account for at least 75% of the assets for which the Applicant provides services.

5. The Applicant will comply with all the terms for exclusion from the definition of "investment adviser" under the Advisers Act set forth in the Family Office Rule except for the limited exception requested by the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-12207 Filed 6-3-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100240; File No. SR-NYSE-2024-31]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

May 29, 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 May 17, 2024, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule ("Fee Schedule") to make clarifying changes with respect to the wireless connections to third party data in co-location. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to make clarifying changes with respect to the wireless connections to third party data in co-location.

The Exchange currently provides Users⁴ with wireless connections to ten market data feeds or combinations of feeds from third-party markets (the "Existing Third Party Data").⁵

The Exchange recently filed to provide wireless connection to MEMX Memoir Depth market data feed ("MEMX Data"), noting that the wireless connection to MEMX Data would lead

to the data center pole.⁶ For all the Existing Third Party Data that leads to that pole,⁷ the monthly charge for wireless connections is subject to a 30-day testing period, during which the monthly charge per connection would be waived. Consistent with that fact, the Exchange proposes to amend the Fee Schedule to clarify that this provision is applicable to wireless connections to MEMX Data.

In addition, the Exchange proposes to make the following non-substantive changes to the Fee Schedule:

- Move the existing service for a wireless connection of NASDAQ BX-Totalview-ITCH data to place the wireless connections in alphabetical order.
- To conform to the corporate branding of Nasdaq, amend "NASDAQ" to "Nasdaq" and delete "OMX" and "Ultra" throughout the Fee Schedule.⁸
- To conform to Nasdaq's usage of the term, amend "Totalview" to "TotalView" in the Existing Third Party Services.⁹

These changes are typographical in nature and are not intended to change the substance or meaning of the Fee Schedule.

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users.

The Exchange does not believe that it would obtain any new customers due to the proposed change.

The proposed change is not otherwise intended to address any other issues relating to colocation services or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

Timing and Implementation

The proposed change to the Fee Schedule to clarify the provisions regarding the MEMX Memoir Depth market feed would become operative when the wireless connection to MEMX Memoir Depth market data feed becomes operative. The Exchange expects that to be no later than the third quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,¹⁰ in general, and furthers the objectives of section 6(b)(5) of the Act,¹¹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with section 6(b)(4) of the Act,¹² because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. With respect to the wireless connection to MEMX Memoir Depth data, the proposed change simply would clarify that the terms on which it is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion.

The Exchange believes that its proposed rule change 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 proposed rule change would clarify that the terms under which the wireless connection to the MEMX Memoir Depth data is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole.

⁴ For purposes of the Exchange's colocation services, a "User" means any market participant that requests to receive colocation services directly from the Exchange. See Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR-NYSE-2015-40). As specified in the Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the "Affiliate SROs"). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSEAMER-2024-33, SR-NYSEARCA-2024-42, SR-NYSECHX-2024-19, and SR-NYSENAT-2024-16.

⁵ See Securities Exchange Act Release No. 99806 (March 20, 2024), 89 FR 21055 (March 26, 2024) (SR-NYSE-2024-15).

⁶ See *id.*

⁷ See Securities Exchange Act Release No. 76748 (December 23, 2015), 80 FR 81609 (December 30, 2015) (SR-NYSE-2015-52).

⁸ See Securities Exchange Act Release No. 801917 (October 23, 2017), 82 FR 49879 (October 27, 2017) (SR-NASDAQ-2017-111). See also <https://www.nasdaq.com/solutions/nasdaq-canada>, and <https://www.nasdaq.com/solutions/nasdaq-ise>.

⁹ See <https://www.nasdaqtrader.com/Trader.aspx?id=DPU5data>.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78f(b)(4).

With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion. The proposed changes would not alter any of the fees charged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of section 6(b)(8) of the Act.¹³

The proposed change would not affect competition among national securities exchanges or among members of the Exchange. The proposed rule change is not designed to address any competitive issues but rather to enhance the clarity and transparency of the Fee Schedule and alleviate possible customer confusion that may arise. The proposed rule change would have no impact on pricing or existing services. Rather, the changes would clarify the Fee Schedule, making it easier to understand and alleviating any possible market participant confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A)

of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹⁶

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),¹⁸ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission agrees with the Exchange that waiver of the 30-day operative delay would be consistent with the protection of investors and the public interest because it would allow the Exchange to implement this proposed change immediately, ensuring that Users could benefit from the 30-day testing period for the existing service for a wireless connection of MEMX Memoir Depth data. Investors and the public interest would also benefit from the increased clarity and transparency the other amendments would provide to the Fee Schedule. The Commission therefore believes that waiver of the 30-day operative delay is appropriate.

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)¹⁹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

¹⁶ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6)(iii).

¹⁹ 15 U.S.C. 78s(b)(2)(B).

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2024-31 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSE-2024-31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSE-2024-31 and should be submitted on or before June 25, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,
Assistant Secretary.

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²⁰ 17 CFR 200.30-3(a)(12).

¹³ 15 U.S.C. 78f(b)(8).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100244; File No. SR–NYSEARCA–2024–42]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

May 29, 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 May 24, 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 amend the Connectivity Fee Schedule (“Fee Schedule”) to make clarifying changes with respect to the wireless connections to third party data in co-location. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to make clarifying changes

with respect to the wireless connections to third party data in co-location.

The Exchange currently provides Users⁴ with wireless connections to ten market data feeds or combinations of feeds from third-party markets (the “Existing Third Party Data”).⁵

The Exchange recently filed to provide wireless connection to MEMX Memoir Depth market data feed (“MEMX Data”), noting that the wireless connection to MEMX Data would lead to the data center pole.⁶ For all the Existing Third Party Data that leads to that pole,⁷ the monthly charge for wireless connections is subject to a 30-day testing period, during which the monthly charge per connection would be waived. Consistent with that fact, the Exchange proposes to amend the Fee Schedule to clarify that this provision is applicable to wireless connections to MEMX Data.

In addition, the Exchange proposes to make the following non-substantive changes to the Fee Schedule:

- Move the existing service for a wireless connection of NASDAQ BX–Totalview–ITCH data to place the wireless connections in alphabetical order.
- To conform to the corporate branding of Nasdaq, amend “NASDAQ” to “Nasdaq” and delete “OMX” and “Ultra” throughout the Fee Schedule.⁸
- To conform to Nasdaq’s usage of the term, amend “Totalview” to “TotalView” in the Existing Third Party Services.⁹

These changes are typographical in nature and are not intended to change

⁴ For purposes of the Exchange’s colocation services, a “User” means any market participant that requests to receive colocation services directly from the Exchange. See Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEARCA–2015–82). As specified in the Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange’s affiliates the New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc. (together, the “Affiliate SROs”). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR–NYSE–2024–31, SR–NYSEAMER–2024–33, SR–NYSECHX–2024–19, and SR–NYSENAT–2024–16.

⁵ See Securities Exchange Act Release No. 99808 (March 20, 2024), 89 FR 21151 (March 26, 2024) (SR NYSEARCA–2024–26).

⁶ See *id.*

⁷ See Securities Exchange Act Release No. 76749 (December 23, 2015), 80 FR 81640 (December 30, 2015) (SR–NYSEARCA–2015–99).

⁸ See Securities Exchange Act Release No. 801917 (October 23, 2017), 82 FR 49879 (October 27, 2017) (SR–NASDAQ–2017–111). See also <https://www.nasdaq.com/solutions/nasdaq-canada>, and <https://www.nasdaq.com/solutions/nasdaq-ise>.

⁹ See <https://www.nasdaqtrader.com/Trader.aspx?id=DPU5data>.

the substance or meaning of the Fee Schedule.

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users.

The Exchange does not believe that it would obtain any new customers due to the proposed change.

The proposed change is not otherwise intended to address any other issues relating to colocation services or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

Timing and Implementation

The proposed change to the Fee Schedule to clarify the provisions regarding the MEMX Memoir Depth market feed would become operative when the wireless connection to MEMX Memoir Depth market data feed becomes operative. The Exchange expects that to be no later than the third quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,¹⁰ in general, and furthers the objectives of section 6(b)(5) of the Act,¹¹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with section 6(b)(4) of the Act,¹² because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes would remove impediments to and perfect the

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78f(b)(4).

mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. With respect to the wireless connection to MEMX Memoir Depth data, the proposed change simply would clarify that the terms on which it is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion.

The Exchange believes that its proposed rule change 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 proposed rule change would clarify that the terms under which the wireless connection to the MEMX Memoir Depth data is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion. The proposed changes would not alter any of the fees charged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of section 6(b)(8) of the Act.¹³

The proposed change would not affect competition among national securities exchanges or among members of the Exchange. The proposed rule change is not designed to address any competitive issues but rather to enhance the clarity and transparency of the Fee Schedule and alleviate possible customer confusion that may arise. The proposed rule change would have no impact on pricing or existing services. Rather, the changes would clarify the Fee Schedule, making it easier to understand and alleviating any possible market participant confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹⁶

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁸ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission agrees with the Exchange that waiver of the 30-day operative delay would be consistent with the protection of investors and the public interest because it would allow the Exchange to implement this proposed change immediately, ensuring that Users could benefit from the 30-day testing period for the existing service for a wireless connection of MEMX Memoir Depth data. Investors and the public interest would also benefit from the increased clarity and transparency the other amendments would provide to the Fee Schedule. The Commission

therefore believes that waiver of the 30-day operative delay is appropriate.

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)¹⁹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEARCA-2024-42 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NYSEARCA-2024-42. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6)(iii).

¹⁹ 15 U.S.C. 78s(b)(2)(B).

¹³ 15 U.S.C. 78f(b)(8).

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-2024-42 and should be submitted on or before June 25, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-12149 Filed 6-3-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100239; File No. SR-MEMX-2024-19]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Short Term Options Series Program in Rule 19.5, Interpretation and Policy .05

May 29, 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 May 16, 2024, MEMX, LLC (“MEMX” 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 Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act ³ and Rule 19b-4(f)(6) thereunder. ⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Short Term Options Series Program in Rule 19.5, Interpretation and

Policy .05. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Short Term Option Series Program in Rule 19.5, Interpretation and Policy .05 (Series of Options Contracts Open for Trading). Specifically, the Exchange proposes to expand the Short Term Option Series Program to permit the listing and trading of options series with Tuesday and Thursday expirations for options on iShares Russell 2000 ETF (“IWM”), specifically permitting two expiration dates for the proposed Tuesday and Thursday expirations in IWM. This is a competitive filing that is based on a proposal submitted from Nasdaq ISE, LLC (“Nasdaq ISE”) and recently approved by the Commission.⁵

Currently, Table 1 in Rule 19.5, Interpretation and Policy .05(h), specifies each symbol that qualifies as a Short Term Option Daily Expiration.⁶ Today, Table 1 permits the listing and trading of Monday Short Term Option Daily Expirations and Wednesday Short

Term Option Daily Expirations for IWM. At this time, the Exchange proposes to expand the Short Term Option Series Program to permit the listing and trading of no more than a total of two IWM Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday, and Thursday expirations at one time.⁷ The listing and trading of Tuesday and Thursday Short Term Option Daily Expirations would be subject to Rule 19.5, Interpretation and Policy .05.

Today, Tuesday Short Term Option Daily Expirations in SPDR S&P 500 ETF Trust (“SPY”) and the INVESCO QQQ Trust, Series 1 (“QQQ”) may open for trading on any Monday or Tuesday that is a business day series of options on the symbols provided in Table 1 that expire at the close of business on each of the next two Tuesdays that are business days and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Tuesday Short Term Option Expiration Date”).⁸ Also, today, Thursday Short Term Option Daily Expirations in SPY and QQQ may open for trading on any Tuesday or Wednesday that is a business day series of options on the symbols provided in Table 1 that expire at the close of business on each of the next two Wednesdays that are business days and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Wednesday Short Term Option Expiration Date”).⁹

In the event that options on IWM expire on a Tuesday or Thursday and that Tuesday or Thursday is a business day in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire, the Exchange would skip that week’s listing and instead list the following week; the two weeks would therefore not be consecutive. With this proposal, the Exchange would be able to open for trading series of options on IWM that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly

⁵ See Securities Exchange Act Release No. 99946 (April 11, 2024) 89 FR 27471 (April 17, 2024) (Order Approving SR-ISE-2024-06).

⁶ The Exchange may open for trading on any Thursday or Friday that is a business day series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which standard expiration options series, Monthly Options Series, or Quarterly Options Series. Of these series of options, the Exchange may have no more than a total of five Short Term Option Expiration Dates. In addition, the Exchange may open for trading series of options on certain symbols that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Short Term Option Daily Expirations”). See Rule 19.5, Interpretation and Policy .05.

⁷ The Exchange would amend the Tuesday and Thursday expirations for IWM in Table 1 Rule 19.5, Interpretation and Policy .05(h) from “0” to “2” to permit Tuesday and Thursday expirations for options on IWM listed pursuant to the Short Term Option Series.

⁸ See Rule 19.5, Interpretation and Policy .05(h).

⁹ *Id.*

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4.

Options Series, or Quarterly Options Series expire.¹⁰

The interval between strike prices for the proposed Tuesday and Thursday IWM Short Term Option Daily Expirations will be the same as those for Tuesday and Thursday IWM Short Term Option Daily Expirations in SPY and QQQ, applicable to the Short Term Option Series Program.¹¹ Specifically, the Tuesday and Thursday IWM Short Term Option Daily Expirations will have a \$0.50 strike interval minimum. As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Tuesday and Thursday IWM Short Term Option Daily Expiration series will be P.M.-settled.

Pursuant to Rule 19.5, Interpretation and Policy .05(h), with respect to the Short Term Option Series Program, a Tuesday or Thursday expiration series shall expire on the first business day immediately prior to that Tuesday or Thursday, *e.g.*, Monday or Wednesday of that week, respectively, if the Tuesday or Thursday is not a business day.

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.¹² The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.¹³ This thirty (30) series restriction would apply to Tuesday and Thursday IWM Short Term Option Daily Expiration series as well. With this proposal, Tuesday and Thursday IWM Expirations would be treated the same as Tuesday and Thursday Expirations in SPY and QQQ. With respect to monthly option series, Short Term Option Daily Expirations expire in the same week in which monthly option series on the same class expire.¹⁴ Further, as is the case today with other Tuesday and Thursday Short Term Option Daily Expirations, the Exchange would not permit Tuesday and Thursday Short Term Option Daily Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire.¹⁵ Therefore, all Short Term Option Daily Expirations would expire at the close of

business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire. The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Tuesday and Thursday IWM Short Term Option Daily Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Tuesday and Thursday Short Term Option Daily Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Tuesday and Thursday for SPY and QQQ and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Tuesday and Thursday for SPY and QQQ.

Impact of Proposal

The Exchange notes that listings in the Short Term Option Series Program comprise a significant part of the standard listing in options markets. The below table sets forth the percentage of weekly listings as compared to monthly, quarterly, and Long-Term Option Series in 2023 in the options industry.¹⁶ The Exchange notes that during this time period all options exchanges mitigated weekly strike intervals.

NUMBER OF STRIKES—2023

Expiration	Percent of total series
Monthly	62.82
Weekly	17.22
LEAP	17.77
Quarterly	2.20

Similar to SPY and QQQ, the Exchange would limit the number of Short Term Option Daily Expirations for IWM to two expirations for Tuesday and Thursday expirations while expanding the Short Term Option Series Program to permit Tuesday, and Thursday expirations for IWM. Expanding the Short Term Option Series Program to permit the listing of Tuesday and

Thursday expirations in IWM will account for the addition of 6.77% of strikes for IWM.¹⁷ With respect to the impact to the Short Term Option Series Program on IWM overall, the impact would be a 20% increase in strikes.¹⁸ With respect to the impact to the Short Term Options Series Program overall, the impact would be a 0.1% increase in strikes.¹⁹ Members will continue to be able to expand hedging tools because all days of the week would be available to permit Members to tailor their investment and hedging needs more effectively in IWM.

NUMBER OF STRIKES—2023

Expiration	Percent of total series
Monthly	35.13
Weekly	48.30
LEAP	12.87
Quarterly	3.70

Weeklies comprise 48.30% of the total volume of options contracts.²⁰ The Exchange believes that inner weeklies (first two weeks) represent high volume as compared to outer weeklies (the last three weeks) and would be more attractive to market participants. The introduction of IWM Tuesday and Thursday expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that IWM Tuesday and Thursday expirations will allow market participants to purchase IWM options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange

¹⁷ Nasdaq ISE sourced this information, which are estimates, from LiveVol®. The information includes data for all 17 options markets as of January 3, 2024. *See id.*

¹⁸ Nasdaq ISE sourced this information, which are estimates, from LiveVol®. The information includes data for all 17 options markets as of January 3, 2024. *See id.*

¹⁹ Nasdaq ISE sourced this information, which are estimates, from LiveVol®. The information includes data for all 17 options markets as of January 3, 2024. *See id.*

²⁰ This table sets forth industry volume. Weeklies comprise 48.30% of volume while only comprising 17.22% of the strikes. Nasdaq ISE sourced this information from OCC. The information includes data for all 17 options markets through December 8, 2023. *See* Securities Exchange Act Release No. 99604 (February 26, 2024), 89 FR 15235 (March 1, 2024) (SR-ISE-2024-06).

¹⁰ Today, IWM may trade on Mondays and Wednesdays, in addition to Fridays, as is the case for all options series.

¹¹ *See* Rule 19.5, Interpretation and Policy .05(e).

¹² *See* Rule 19.5, Interpretation and Policy .05(a).

¹³ *See* Rule 19.5, Interpretation and Policy .05(a).

¹⁴ *See* Rule 19.5, Interpretation and Policy .05(b).

¹⁵ *See* Rule 19.5, Interpretation and Policy .05(h).

¹⁶ Per Nasdaq ISE, LLC (“Nasdaq ISE”), this information was sourced from The Options Clearing Corporation (“OCC”). The information includes time averaged data for all 17 options markets through December 8, 2023. *See* Securities Exchange Act Release No. 99604 (February 26, 2024), 89 FR 15235 (March 1, 2024) (SR-ISE-2024-06).

and, in particular, the requirements of section 6(b) of the Act.²¹ Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)²² 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)²³ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that IWM Tuesday and Thursday Short Term Daily Expirations will allow market participants to purchase IWM options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively. Further, the proposal to permit Tuesday and Thursday Short Term Daily Expirations for options on IWM listed pursuant to the Short Term Option Series Program, subject to the proposed limitation of two nearest expirations, would protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in IWM options, thus allowing them to better manage their risk exposure. In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Tuesday and Thursday IWM Short Term Daily Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. Similarly, the Exchange believes Tuesday and Thursday IWM Short Term Daily Expirations should create greater trading and hedging opportunities and provide customers the flexibility to tailor their investment objectives more effectively. The Exchange currently lists SPY and

QQQ Tuesday and Thursday Short Term Daily Expirations.²⁴

With this proposal, Tuesday and Thursday IWM Expirations would be treated similar to existing Tuesday and Thursday SPY and QQQ Expirations and would expire in the same week that standard monthly options expire on Fridays.²⁵ Further, today, Tuesday and Thursday Short Term Option Daily Expirations do not expire on a business day in which monthly options series or Quarterly Options Series expire.²⁶ Today, all Short Term Option Daily Expirations expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire. There are no material differences in the treatment of Tuesday and Thursday SPY and QQQ Short Term Daily Expirations as compared to the proposed Tuesday and Thursday IWM Short Term Daily Expirations.

Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed Tuesday and Thursday IWM Short Term Daily Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Tuesday and Thursday SPY and QQQ Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Tuesday and Thursday IWM Short Term Daily Expirations.

Finally, the Exchange notes the proposed rule change is substantively the same as a rule change proposed by ISE, which the Commission recently approved.²⁷

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Similar to SPY and QQQ Tuesday and Thursday Expirations, the introduction of IWM Tuesday and Thursday Short Term Daily Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools

available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that IWM Tuesday and Thursday Short Term Daily Expirations will allow market participants to purchase IWM options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe the proposal will impose any burden on intermarket competition, as nothing prevents other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Tuesday and Thursday Short Term Daily Expirations. The Exchange notes that having Tuesday and Thursday IWM expirations is not a novel proposal, as SPY and QQQ Tuesday and Thursday Expirations are currently listed on the Exchange.²⁸ Additionally, as noted above, the Commission recently approved a substantively identical proposal of another exchange.²⁹ Further, the Exchange does not believe the proposal will impose any burden on intramarket competition, as all market participants will be treated in the same manner under this proposal.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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 Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act³⁰ and Rule 19b-4(f)(6) thereunder.³¹ 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 Act³² and paragraph (f)(6) of Rule 19b-4 thereunder.³³

²⁸ See Rule 19.5, Interpretation and Policy .05(h).

²⁹ See *supra* note 5.

³⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

³¹ 17 CFR 240.19b-4(f)(6).

³² 15 U.S.C. 78s(b)(3)(A)(iii).

³³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(5).

²³ *Id.*

²⁴ See Rule 19.5, Interpretation and Policy .05(h).

²⁵ See Rule 19.5, Interpretation and Policy .05(b).

²⁶ See Rule 19.5, Interpretation and Policy .05(h).

²⁷ See *supra* note 5.

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act³⁴ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)³⁵ 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 to permit the Exchange to implement the proposal at the same time as its competitor exchanges, thus creating competition among Short Term Option Series throughout the industry. The Exchange notes that its proposal is substantially similar in all material respects to a proposal submitted by Nasdaq ISE that was recently approved by the Commission.³⁶ The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.³⁷

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:

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.

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ 17 CFR 240.19b-4(f)(6)(iii).

³⁶ See *supra* note 5.

³⁷ 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).

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MEMX-2024-19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-MEMX-2024-19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MEMX-2024-19 and should be submitted on or before June 25, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁸

Sherry R. Haywood,
Assistant Secretary.

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BILLING CODE 8011-01-P

³⁸ 17 CFR 200.30-3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100243; File No. SR-NYSE-2024-16]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

May 29, 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 May 17, 2024, NYSE National, Inc. ("NYSE National" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule ("Fee Schedule") to make clarifying changes with respect to the wireless connections to third party data in co-location. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to make clarifying changes with respect to the wireless connections to third party data in co-location.

The Exchange currently provides Users⁴ with wireless connections to ten market data feeds or combinations of feeds from third-party markets (the "Existing Third Party Data").⁵

The Exchange recently filed to provide wireless connection to MEMX Memoir Depth market data feed ("MEMX Data"), noting that the wireless connection to MEMX Data would lead to the data center pole.⁶ For all the Existing Third Party Data that leads to that pole,⁷ the monthly charge for wireless connections is subject to a 30-day testing period, during which the monthly charge per connection would be waived. Consistent with that fact, the Exchange proposes to amend the Fee Schedule to clarify that this provision is applicable to wireless connections to MEMX Data.

In addition, the Exchange proposes to make the following non-substantive changes to the Fee Schedule:

- Move the existing service for a wireless connection of NASDAQ BX-Totalview-ITCH data to place the wireless connections in alphabetical order.
- To conform to the corporate branding of Nasdaq, amend "NASDAQ" to "Nasdaq" and delete "OMX" and "Ultra" throughout the Fee Schedule.⁸
- To conform to Nasdaq's usage of the term, amend "Totalview" to

"TotalView" in the Existing Third Party Services.⁹

These changes are typographical in nature and are not intended to change the substance or meaning of the Fee Schedule.

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users.

The Exchange does not believe that it would obtain any new customers due to the proposed change.

The proposed change is not otherwise intended to address any other issues relating to colocation services or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

Timing and Implementation

The proposed change to the Fee Schedule to clarify the provisions regarding the MEMX Memoir Depth market feed would become operative when the wireless connection to MEMX Memoir Depth market data feed becomes operative. The Exchange expects that to be no later than the third quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,¹² because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and

other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. With respect to the wireless connection to MEMX Memoir Depth data, the proposed change simply would clarify that the terms on which it is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion.

The Exchange believes that its proposed rule change 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 proposed rule change would clarify that the terms under which the wireless connection to the MEMX Memoir Depth data is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion. The proposed changes would not alter any of the fees charged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.¹³

The proposed change would not affect competition among national securities exchanges or among members of the Exchange. The proposed rule change is not designed to address any competitive issues but rather to enhance the clarity and transparency of the Fee Schedule and alleviate possible customer confusion that may arise. The proposed rule change would have no impact on pricing or existing services. Rather, the changes would clarify the Fee Schedule, making it easier to understand and

⁴ For purposes of the Exchange's colocation services, a "User" means any market participant that requests to receive colocation services directly from the Exchange. See Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 at n.9 (June 6, 2018) (SR-NYSE-NAT-2018-07). As specified in the Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange's affiliates the New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE Chicago, Inc. (together, the "Affiliate SROs"). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2024-31, SR-NYSEAMER-2024-33, SR-NYSEARCA-2024-42, and SR-NYSECHX-2024-19.

⁵ See Securities Exchange Act Release No. 99810 (March 20, 2024), 89 FR 21050 (March 26, 2024) (SR-NYSE-NAT-2024-09).

⁶ See *id.*

⁷ See 83 FR 26314, *supra* note 3, at 26319-20.

⁸ See Securities Exchange Act Release No. 801917 (October 23, 2017), 82 FR 49879 (October 27, 2017) (SR-NASDAQ-2017-111). See also <https://www.nasdaq.com/solutions/nasdaq-canada>, and <https://www.nasdaq.com/solutions/nasdaq-ise>.

⁹ See [https://www.nasdaqtrader.com/Trader.aspx?id=DPU\\$Data](https://www.nasdaqtrader.com/Trader.aspx?id=DPU$Data).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78f(b)(4).

¹³ 15 U.S.C. 78f(b)(8).

alleviating any possible market participant confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹⁶

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁸ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission agrees with the Exchange that waiver of the 30-day operative delay would be consistent with the protection of investors and the public interest because it would allow the Exchange to implement this proposed change immediately, ensuring that Users could benefit from the 30-day testing period for the existing service for a wireless connection of MEMX Memoir Depth data. Investors and the public interest would also benefit from the increased clarity and transparency the

other amendments would provide to the Fee Schedule. The Commission therefore believes that waiver of the 30-day operative delay is appropriate.

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)¹⁹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSENAT-2024-16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NYSENAT-2024-16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official

business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSENAT-2024-16 and should be submitted on or before June 25, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-12142 Filed 6-3-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100242; File No. SR-NYSECHX-2024-19]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

May 29, 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 May 17, 2024, the NYSE Chicago, Inc. ("NYSE Chicago" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule ("Fee Schedule") to make clarifying changes with respect to the wireless connections to third party data in co-location. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6)(iii).

¹⁹ 15 U.S.C. 78s(b)(2)(B).

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to make clarifying changes with respect to the wireless connections to third party data in co-location.

The Exchange currently provides Users⁴ with wireless connections to ten market data feeds or combinations of feeds from third-party markets (the "Existing Third Party Data").⁵

The Exchange recently filed to provide wireless connection to MEMX Memoir Depth market data feed ("MEMX Data"), noting that the wireless connection to MEMX Data would lead to the data center pole.⁶ For all the Existing Third Party Data that leads to that pole,⁷ the monthly charge for wireless connections is subject to a 30-day testing period, during which the monthly charge per connection would be waived. Consistent with that fact, the Exchange proposes to amend the Fee Schedule to clarify that this provision is

applicable to wireless connections to MEMX Data.

In addition, the Exchange proposes to make the following non-substantive changes to the Fee Schedule:

- Move the existing service for a wireless connection of NASDAQ BX-Totalview-ITCH data to place the wireless connections in alphabetical order.
- To conform to the corporate branding of Nasdaq, amend "NASDAQ" to "Nasdaq" and delete "OMX" and "Ultra" throughout the Fee Schedule.⁸
- To conform to Nasdaq's usage of the term, amend "Totalview" to "TotalView" in the Existing Third Party Services.⁹

These changes are typographical in nature and are not intended to change the substance or meaning of the Fee Schedule.

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users.

The Exchange does not believe that it would obtain any new customers due to the proposed change.

The proposed change is not otherwise intended to address any other issues relating to colocation services or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

Timing and Implementation

The proposed change to the Fee Schedule to clarify the provisions regarding the MEMX Memoir Depth market feed would become operative when the wireless connection to MEMX Memoir Depth market data feed becomes operative. The Exchange expects that to be no later than the third quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of

trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,¹² because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. With respect to the wireless connection to MEMX Memoir Depth data, the proposed change simply would clarify that the terms on which it is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion.

The Exchange believes that its proposed rule change 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 proposed rule change would clarify that the terms under which the wireless connection to the MEMX Memoir Depth data is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion. The proposed changes would not alter any of the fees charged.

⁴ For purposes of the Exchange's colocation services, a "User" means any market participant that requests to receive colocation services directly from the Exchange. See Securities Exchange Act Release No. 87408 (October 28, 2019), 84 FR 58778 at n.6 (November 1, 2019) (SR-NYSECHX-2019-12). As specified in the Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange's affiliates the New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE National, Inc. (together, the "Affiliate SROs"). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2024-31, SR-NYSEAMER-2024-33, SR-NYSEARCA-2024-42, and SR-NYSENAT-2024-16.

⁵ See Securities Exchange Act Release No. 99809 (March 20, 2024), 89 FR 21158 (March 26, 2024) (SR-NYSECHX-2024-11).

⁶ See *id.*

⁷ See 84 FR 58778, *supra* note 3, at 58784-85.

⁸ See Securities Exchange Act Release No. 801917 (October 23, 2017), 82 FR 49879 (October 27, 2017) (SR-NASDAQ-2017-111). See also <https://www.nasdaq.com/solutions/nasdaq-canada>, and <https://www.nasdaq.com/solutions/nasdaq-ise>.

⁹ See <https://www.nasdaqtrader.com/Trader.aspx?id=DPUSdata>.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.¹³

The proposed change would not affect competition among national securities exchanges or among members of the Exchange. The proposed rule change is not designed to address any competitive issues but rather to enhance the clarity and transparency of the Fee Schedule and alleviate possible customer confusion that may arise. The proposed rule change would have no impact on pricing or existing services. Rather, the changes would clarify the Fee Schedule, making it easier to understand and alleviating any possible market participant confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹⁶

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁸ the

Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission agrees with the Exchange that waiver of the 30-day operative delay would be consistent with the protection of investors and the public interest because it would allow the Exchange to implement this proposed change immediately, ensuring that Users could benefit from the 30-day testing period for the existing service for a wireless connection of MEMX Memoir Depth data. Investors and the public interest would also benefit from the increased clarity and transparency the other amendments would provide to the Fee Schedule. The Commission therefore believes that waiver of the 30-day operative delay is appropriate.

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)¹⁹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSECHX-2024-19 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-NYSECHX-2024-19. 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-NYSECHX-2024-19 and should be submitted on or before June 25, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-12141 Filed 6-3-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100245; File No. SR-CboeBZX-2024-040]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Franklin Bitcoin ETF

May 29, 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 May 16, 2024, Cboe BZX Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹³ 15 U.S.C. 78f(b)(8).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6)(iii).

¹⁹ 15 U.S.C. 78s(b)(2)(B).

(“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission” or “SEC”) a proposed rule change to amend the Franklin Bitcoin ETF (the “Fund”), shares of which are listed and traded on the Exchange pursuant to BZX Rule 14.11(e)(4), to amend the time at which purchase orders for cash transaction creation baskets must be placed.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission approved the listing and trading of shares of the Fund (the “Shares”) on the Exchange pursuant to Exchange Rule 14.11(e)(4), Commodity-Based Trust Shares, on January 10, 2024.⁵ Exchange Rule 14.11(e)(4)

governs the listing and trading of Commodity-Based Trust Shares, which means a security (a) that is issued by a trust (“Trust”) that holds (1) a specified commodity deposited with the Trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder’s request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash. The Shares are issued by the Fund, a series of Franklin Templeton Digital Holdings Trust (the “Trust”). The Trust was formed as a Delaware statutory trust on September 6, 2023.

The Exchange proposes to amend a representation set forth in the Exchange’s previous rule filing to list and trade Shares of the Fund.⁶ Specifically, Amendment No. 1 represented that purchase orders for cash transaction creation baskets must be placed by 3:00 p.m. Eastern Time, or the close of regular trading on the Exchange, whichever is earlier. Now, the Exchange proposes to amend the time purchase orders for cash transaction creation baskets must be placed to 2:00 p.m. Eastern Time, the close of regular trading on the Exchange, or another time determined by the Sponsor.⁷ The proposed change would provide additional flexibility for the Sponsor in determining the cut-off time for submitting purchase orders for cash transaction creation baskets. Furthermore, at least one other issuer of spot bitcoin exchange-traded products (“ETPs”) has similarly provided for flexibility to the sponsor in determining the cut-off time for submitting such purchase orders.⁸

SR–NASDAQ–2023–016; SR–NASDAQ–2023–019; SR–CboeBZX–2023–028; SR–CboeBZX–2023–038; SR–CboeBZX–2023–040; SR–CboeBZX–2023–042; SRCboeBZX–2023–044; SR–CboeBZX–2023–072) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units) (the “Approval Order”).

⁶ See supra note 5 and see also Securities Exchange Act Release No. 99286 (January 8, 2024) 89 FR 2372 (January 12, 2024) (SR–CboeBZX–2023–072) (Notice of Filing of Amendment No. 1 to a Proposed Rule Change to List and Trade Shares of Franklin Bitcoin ETF Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares)) (“Amendment No. 1”).

⁷ The sponsor of the Fund is Franklin Holdings, LLC (the “Sponsor”).

⁸ For example, the proposal to list and trade shares of the ARK 21Shares Bitcoin ETF provided for that purchase orders must be placed by 12:00 p.m. Eastern Time, the close of regular trading on

Except for the above change, all other representations in Amendment No. 1 and the Approval Order remain unchanged and will continue to constitute continuing listing requirements. In addition, the Fund will continue to comply with the terms of Amendment No. 1, the Approval Order, and the requirements of Rule 14.11(e)(4).

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.⁹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ 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 the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would update a representation in Amendment No. 1 regarding the time at which purchase orders for cash transaction creation baskets must be placed. As described above, the proposed change would provide additional flexibility to the Sponsor in determining the cut-off time for such purchase orders. The Exchange believes the proposal will remove impediments to and perfect the mechanism of a free and open market because it would provide additional flexibility to the creation and redemption of Shares, which may result in tighter spreads and a more efficient market, to the benefit of all market participants. Specifically, allowing for a later cut-off time would provide additional time for market participants

the Exchange, or another time determined by the Sponsor. See Securities Exchange Act No. 99288 (January 8, 2024) 89 FR 2387 (January 12, 2024) (SR–CboeBZX–2023–028) (Notice of Filing of Amendment No. 5 to a Proposed Rule Change to List and Trade Shares of the ARK 21Shares Bitcoin ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares). See also the Approval Order.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ See Securities Exchange Act Release No. 99306 (January 10, 2024) 89 FR 3008 (January 17, 2024) (File Nos. SR–NYSEARCA–2021–90; SR–NYSEARCA–2023–44; SRNYSEARCA–2023–58;

to submit purchase orders which may result in additional creation and/or redemption units on the day, which may in turn lead to tighter spreads and a more efficient market, and conversely, an earlier cut-off time may provide additional time for the trust to manage creation and redemptions, which may be necessary due to unforeseen circumstances. The Exchange believes permitting this flexibility to the Sponsor regarding the time at which purchase orders for cash transaction creation baskets must be placed, consistent with at least one other issuer of spot bitcoin ETP,¹¹ would perfect the mechanism of a free and open market, and is therefore, consistent with section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the proposed amendment is intended to change the time at which purchase orders for cash transaction creation baskets must be placed. The Exchange believes that this change will not impose any burden on competition.

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

Pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6)¹³ thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.¹⁴

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁵ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. As discussed in greater detail above, the Exchange represents that the proposal would provide additional flexibility to the Sponsor in determining the cut-off time for submitting purchase orders for cash transaction creation baskets, which may result in tighter spreads and a more efficient market. Furthermore, at least one other issuer of spot bitcoin ETPs has similarly provided for flexibility to the sponsor in determining the cut-off time for submitting purchase orders.¹⁶ The Exchange further represents that except for the change discussed herein, all other representations in Amendment No. 1 and the Approval Order remain unchanged and will continue to constitute continuing listing requirements, and the Fund will continue to comply with the terms of Amendment No. 1, the Approval Order, and the requirements of Rule 14.11(e)(4). The proposed rule change thus raises no novel legal or regulatory issues. Therefore, the Commission believes 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.¹⁷

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2024-040 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-2024-040. 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-2024-040 and should be submitted on or before June 25, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-12144 Filed 6-3-24; 8:45 am]

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¹⁸ 17 CFR 200.30-3(a)(12), (59).

¹¹ *Supra* note 7.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

¹⁶ *See supra* note 8.

¹⁷ 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).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100237; File No. SR–NSCC–2024–004]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Decommission the DTCC Limit Monitoring Risk Management Tool

May 29, 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 May 16, 2024, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the NSCC Rules & Procedures (“Rules”) to decommission a risk management tool called DTCC Limit Monitoring, as described in greater detail below.³

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to modify the Rules to decommission the DTCC Limit Monitoring risk management tool

(“Limit Monitoring”). The proposed rule change is discussed in detail below.

(i) Background

NSCC provides its Members with a risk management tool called DTCC Limit Monitoring, which enables Members to monitor trading activity on an intraday basis of their organizations and/or their correspondent firms through the review of post-trade data.⁴ Limit Monitoring was implemented in 2014 in connection with industry-wide efforts to develop tools and strategies to mitigate and address the risks associated with increasingly complex, interconnected, and automated market technology (such risks include, but are not limited to, trade input errors, software or trading algorithm errors, and inadequate controls for automated processes). Through Limit Monitoring, NSCC Members can establish pre-set limits for their organizations and/or their correspondent firms to monitor trading activity and review notifications that are delivered when these pre-set limits are being approached and when they are reached. Limit Monitoring was intended to supplement Members’ existing internal risk management processes.⁵ Any actions Members determine to take in response to Limit Monitoring alerts are the Member’s responsibility and are taken away from NSCC. Limit Monitoring is primarily discussed in Rule 54 and Procedure XVII.⁶

(ii) Proposed Changes to the Rules

As discussed above, Limit Monitoring was created as part of a broader industry-wide effort to develop tools and strategies to mitigate and address trading risks. Since the implementation of Limit Monitoring in 2014, U.S. equity exchanges have also implemented risk controls to mitigate risks inherent with direct exchange transaction flow (such controls include, but are not limited to, credit limits, single order limits, and kill switch functionality).⁷ These exchange

risk controls are optional risk management tools made available to exchange members to assist them in monitoring and managing their risks. In addition, broker-dealers have continued to enhance their own internal risk management systems and processes to manage their trading risks.

NSCC currently makes Limit Monitoring available to all full-service Members to use on a voluntary basis.⁸ Limit Monitoring is intended to supplement, and not replace, a Member’s own internal systems and procedures or other tools, such as exchange pre-trade risk controls, available to the Member for managing its risks. NSCC does not require Members to take any particular actions based on the output of Limit Monitoring, and any actions Members determine to take in response to Limit Monitoring alerts are performed away from NSCC. Moreover, NSCC does not use Limit Monitoring for its own internal clearance, settlement, or risk management purposes.

The technology platform currently used by NSCC to maintain the data infrastructure for Limit Monitoring is nearing the end of its lifecycle. As a result, NSCC would need to invest significant resources to replace this platform in order to continue to offer Limit Monitoring to Members. NSCC has conducted internal review and performed initial outreach to Members to evaluate their use of Limit Monitoring. The review and outreach indicated that a majority of Members either do not use Limit Monitoring or do not rely on it extensively to manage their risks. Members that do not use Limit Monitoring or make only limited use of it have noted that they primarily rely on other industry or in-house tools to monitor and evaluate these risks. Additionally, several Members that do currently use Limit Monitoring informed NSCC that they would be able to work around the elimination of this tool. There were no Members that raised significant concerns or objections to the decommissioning of Limit Monitoring, or that indicated they could not accommodate the elimination of the tool. Given the evolution in industry-wide risk control tools and processes since the implementation of Limit Monitoring in 2014 and the limited usage of Limit Monitoring by Members, NSCC is proposing to decommission the Limit Monitoring tool.

To implement the proposed rule change, NSCC would remove Rule 54

2020–43; 89225 (July 6, 2020), 85 FR 41650 (July 10, 2020) (File No. SR–NASDAQ–2020–034).

⁸ See *supra* note 5.

⁴ See Securities Exchange Act Release Nos. 71637 (Feb. 28, 2014), 79 FR 12708 (Mar. 6, 2014) (File No. SR–NSCC–2013–12) and 77990 (June 3, 2016), 81 FR 37229 (June 9, 2016) (File No. SR–NSCC–2016–001).

⁵ In 2022, NSCC modified Rule 54 and Procedure XVII to make Limit Monitoring a voluntary tool for all Members and eliminate the requirement that certain specified Members register for Limit Monitoring. See Securities Exchange Act Release No. 95723 (Sept. 9, 2022), 87 FR 56724 (Sept. 15, 2022) (File No. SR–NSCC–2022–012).

⁶ See *supra* note 3.

⁷ See, e.g., Securities Exchange Act Release Nos. 88599 (Apr. 8, 2020), 85 FR 20793 (Apr. 14, 2020) (File No. SR–CboeBZX–2020–006); 88776 (Apr. 29, 2020), 85 FR 26768 (May 5, 2020) (File No. SR–NYSE–2020–17); 88904 (May 19, 2020), 85 FR 31560 (May 26, 2020) (File No. SR–NYSEArca–

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ Capitalized terms not defined herein shall have the meaning assigned to such terms in the Rules, available at <https://www.dtcc.com/legal/rules-and-procedures.aspx>.

and Procedure XVII from the Rules. NSCC would also remove associated defined terms “LM Member-provided Data,” “LM Trade Date Data,” “LM Transaction Data,” “RP Member-provided Data,” “RP Trade Date Data,” and “RP Transaction Data” from Rule 1. Finally, NSCC would remove section 2(i) of Rule 58 concerning the limitations on NSCC’s liability for the completeness or accuracy of LM Trade Date Data, LM Member-provided Data, LM Transaction Data, or other information or data which it receives from Members or third parties and which is utilized in DTCC Limit Monitoring, or for any errors, omissions or delays which may occur in the transmission of such data or information.

Implementation Timeframe

Subject to approval by the Commission, NSCC would implement the proposed rule change on November 15, 2024.

2. Statutory Basis

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Section 17A(b)(3)(F) of Act⁹ requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. NSCC believes the proposed rule change is consistent with the requirements of section 17A(b)(3)(F) of Act for the reasons set forth below.

As discussed above, the technology platform currently used by NSCC to maintain the data infrastructure for Limit Monitoring is nearing the end of its lifecycle. As a result, NSCC would need to invest significant resources to replace this platform to continue offering Limit Monitoring to Members. Limit Monitoring is a voluntary tool that is intended to supplement, and not replace, a Member’s own internal systems and procedures or other tools, such as exchange pre-trade risk controls, available to the Member for managing its risks. NSCC does not require Members to take any particular action based on the output of Limit Monitoring, and any actions Members determine to take in response to Limit Monitoring alerts are performed away from NSCC. Moreover, NSCC does not use the Limit Monitoring tool for its

own internal purposes to promote or facilitate the clearance, settlement, or risk management of securities transactions.

NSCC’s internal analysis and preliminary outreach to Members indicated that a majority of Members either do not use Limit Monitoring or do not rely on it extensively to manage their risks. Members that do not use Limit Monitoring or make only limited use of it noted that they primarily rely on other industry or in-house tools to monitor and evaluate these risks. Certain other Members that do currently use Limit Monitoring informed NSCC that they would be able to work around the elimination of this tool. Given the voluntary and supplemental nature of Limit Monitoring, the limited use of Limit Monitoring by Members, and the evolution and improvement of industry-wide risk control tools and processes since the implementation of Limit Monitoring in 2014, NSCC is proposing to decommission the Limit Monitoring tool.

For reasons set forth above, NSCC believes that decommissioning the Limit Monitoring tool would not impact the prompt and accurate clearance and settlement of securities transactions by NSCC or the safeguarding of securities and funds in NSCC’s custody or control or for which it is responsible. NSCC’s rules would therefore continue to be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding securities and funds in accordance with section 17A(b)(3)(F) of the Act.¹⁰

(B) Clearing Agency’s Statement on Burden on Competition

Section 17A(b)(3)(I) of Act¹¹ requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would impact certain Members to a greater extent than others; however, NSCC does not believe that the proposed rule change would have an impact significant enough to present a burden on competition. NSCC’s internal analysis and preliminary outreach indicated that a majority of NSCC Members either do not use Limit Monitoring or do not rely on it extensively to manage their risks. Members that do not use Limit Monitoring or make only limited use of it noted that they primarily rely on other industry or in-house tools to monitor and evaluate these risks. Certain

Members that do currently use Limit Monitoring informed NSCC that they would be able to work around the elimination of this tool. Those Members may need to expend resources to acquire industry tools or solutions or develop in-house tools of their own to replace their use of Limit Monitoring. However, NSCC does not believe that the impact would be significant enough to impose a burden on competition, particularly as it relates to the use of NSCC’s services. Therefore, NSCC 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.

(C) Clearing Agency’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission’s instructions on how to submit comments, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission’s Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

NSCC reserves the right to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

¹⁰ *Id.*

¹¹ 15 U.S.C. 78q-1(b)(3)(I).

⁹ 15 U.S.C. 78q-1(b)(3)(F).

(A) by order approve or disapprove such proposed rule change, or
(B) institute proceedings to determine whether the proposed rule change should be 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–NSCC–2024–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2024–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (<https://dtcc.com/legal/sec-rule-filings.aspx>). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or

subject to copyright protection. All submissions should refer to File Number SR–NSCC–2024–004 and should be submitted on or before June 25, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024–12143 Filed 6–3–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100236; File No. SR–CboeEDGA–2024–009]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Withdrawal of Proposed Rule Change To Amend Its Fees Schedule To Adopt Fees for Dedicated Cores

May 29, 2024.

On March 20, 2024, Cboe EDGA Exchange, Inc. (the “Exchange”) 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 (File Number SR–CboeEDGA–2024–009) to adopt fees relating to the use of Dedicated Cores. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.³ The proposed rule change was published for comment in the **Federal Register** on April 5, 2024.⁴ On May 13, 2024, the Exchange withdrew the proposed rule change (SR–CboeEDGA–2024–009).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024–12148 Filed 6–3–24; 8:45 am]

BILLING CODE 8011–01–P

¹² 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as “establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.” 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ See Securities Exchange Act Release No. 99875 (April 1, 2024), 89 FR 24046.

⁵ 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100241; File No. SR–NYSEAMER–2024–33]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

May 29, 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 May 17, 2024, NYSE American LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule (“Fee Schedule”) to make clarifying changes with respect to the wireless connections to third party data in co-location. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to make clarifying changes with respect to the wireless connections to third party data in co-location.

The Exchange currently provides Users⁴ with wireless connections to ten market data feeds or combinations of feeds from third-party markets (the "Existing Third Party Data").⁵

The Exchange recently filed to provide wireless connection to MEMX Memoir Depth market data feed ("MEMX Data"), noting that the wireless connection to MEMX Data would lead to the data center pole.⁶ For all the Existing Third Party Data that leads to that pole,⁷ the monthly charge for wireless connections is subject to a 30-day testing period, during which the monthly charge per connection would be waived. Consistent with that fact, the Exchange proposes to amend the Fee Schedule to clarify that this provision is applicable to wireless connections to MEMX Data.

In addition, the Exchange proposes to make the following non-substantive changes to the Fee Schedule:

- Move the existing service for a wireless connection of NASDAQ BX-Totalview-ITCH data to place the wireless connections in alphabetical order.
- To conform to the corporate branding of Nasdaq, amend "NASDAQ" to "Nasdaq" and delete "OMX" and "Ultra" throughout the Fee Schedule.⁸

⁴ For purposes of the Exchange's colocation services, a "User" means any market participant that requests to receive colocation services directly from the Exchange. See Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR-NYSEMKT-2015-67). As specified in the Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange's affiliates the New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the "Affiliate SROs"). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2024-31, SR-NYSEARCA-2024-42, SR-NYSECHX-2024-19, and SR-NYSENAT-2024-16.

⁵ See Securities Exchange Act Release No. 99807 (March 20, 2024), 89 FR 21072 (March 26, 2024) (SR-NYSEAmer-2024-18).

⁶ See *id.*

⁷ See Securities Exchange Act Release No. 76748 (December 23, 2015), 80 FR 81648 (December 30, 2015) (SR-NYSEMKT-2015-85).

⁸ See Securities Exchange Act Release No. 801917 (October 23, 2017), 82 FR 49879 (October 27, 2017) (SR-NASDAQ-2017-111). See also <https://www.nasdaq.com/solutions/nasdaq-canada>, and <https://www.nasdaq.com/solutions/nasdaq-ise>.

- To conform to Nasdaq's usage of the term, amend "Totalview" to "TotalView" in the Existing Third Party Services.⁹

These changes are typographical in nature and are not intended to change the substance or meaning of the Fee Schedule.

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users.

The Exchange does not believe that it would obtain any new customers due to the proposed change.

The proposed change is not otherwise intended to address any other issues relating to colocation services or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

Timing and Implementation

The proposed change to the Fee Schedule to clarify the provisions regarding the MEMX Memoir Depth market feed would become operative when the wireless connection to MEMX Memoir Depth market data feed becomes operative. The Exchange expects that to be no later than the third quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,¹² because it provides for the equitable allocation of

reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. With respect to the wireless connection to MEMX Memoir Depth data, the proposed change simply would clarify that the terms on which it is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion.

The Exchange believes that its proposed rule change 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 proposed rule change would clarify that the terms under which the wireless connection to the MEMX Memoir Depth data is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion. The proposed changes would not alter any of the fees charged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.¹³

The proposed change would not affect competition among national securities exchanges or among members of the Exchange. The proposed rule change is not designed to address any competitive issues but rather to enhance the clarity and transparency of the Fee Schedule and alleviate possible customer confusion that may arise. The proposed rule change would have no impact on pricing or existing services. Rather, the

⁹ See <https://www.nasdaqtrader.com/Trader.aspx?id=DPUSdata>.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78f(b)(4).

¹³ 15 U.S.C. 78f(b)(8).

changes would clarify the Fee Schedule, making it easier to understand and alleviating any possible market participant confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹⁶

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁸ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission agrees with the Exchange that waiver of the 30-day operative delay would be consistent with the protection of investors and the public interest because it would allow the Exchange to implement this proposed change immediately, ensuring that Users could benefit from the 30-day testing period for the existing service for a wireless connection of MEMX Memoir Depth data. Investors and the public

interest would also benefit from the increased clarity and transparency the other amendments would provide to the Fee Schedule. The Commission therefore believes that waiver of the 30-day operative delay is appropriate.

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)¹⁹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEAMER-2024-33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NYSEAMER-2024-33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and

printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEAMER-2024-33 and should be submitted on or before June 25, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-12147 Filed 6-3-24; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20339 and #20340; OKLAHOMA Disaster Number OK-20003]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Oklahoma

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA-4776-DR), dated 05/16/2024.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: 04/25/2024 through 05/09/2024.

DATES: Issued on 05/28/2024.

Physical Loan Application Deadline Date: 07/15/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 02/18/2025.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6)(iii).

¹⁹ 15 U.S.C. 78s(b)(2)(B).

²⁰ 17 CFR 200.30-3(a)(12).

organizations in the State of Oklahoma, dated 05/16/2024, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Coal, Haskell, Kay, Okfuskee, Washington.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–12127 Filed 6–3–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0021]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders; Correction

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

ACTION: Notice of applications for exemption; correction.

SUMMARY: In a notice of applications for exemption published in the **Federal Register** on May 13, 2024, FMCSA announced its decision to renew exemptions for 12 individuals 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. The notice inadvertently published an individual's medical diagnosis incorrectly. This notice corrects that error.

DATES: This correction is effective May 13, 2024. Comments on the notice must still be received on or before June 12, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical

Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, 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 materials in the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION: On May 13, 2024, FMCSA published a notice of applications for exemption (88 FR 41489) with an effective date of May 13, 2024, in which FMCSA announces receipt of applications from 12 individuals for an 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. The notice inadvertently published Donald Gloy's medical diagnosis incorrectly. Through this notice, FMCSA corrects the May 13, 2024, applications for exemption by correctly indicating Donald Gloy's medical diagnosis.¹

In FR Doc. 2024–10271 appearing on page 41489 in the **Federal Register** of May 13, 2024, the following correction is made:

1. On page 41490, in the third column, under Donald Gloy's qualifications of applicant's summary, "They have a history of generalized epilepsy and have been seizure free since 2019" is corrected to read "They had a single provoked seizure in November 2018 and have been seizure free since."

Issued under authority delegated in 49 CFR 1.87.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–12193 Filed 6–3–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

¹ The published version of the original notice is included in the docket for this correction.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is revising the entry of a person that has been placed on OFAC's Specially Designated Nationals and Blocked Persons (SDN) List. All property and interests in property subject to U.S. jurisdiction of this person remain blocked, and U.S. persons are generally prohibited from engaging in transactions with them. Additionally, OFAC is removing one entry from the SDN List.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Bradley T. Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (<https://ofac.treasury.gov>).

Notice of OFAC Action(s)

On May 24, 2024, OFAC removed the following entry from the SDN List to resolve duplicate entries of the same aircraft on the SDN List.

Aircraft

1. EP–GOM; Aircraft Construction Number (also called L/N or S/N or F/N) 8401; Aircraft Manufacture Date 1992; Aircraft Model IL76–TD; Aircraft Operator YAS AIR; Aircraft Manufacturer's Serial Number (MSN) 1023409321 (aircraft) [SDGT] (Linked To: POUYA AIR).

On May 24, 2024, published the following revised information for the entry on the SDN List for the following person blocked under the relevant sanctions authority listed below.

BILLING CODE 4810–AL–P

Entity

1. JOINT STOCK COMPANY SPECIAL ECONOMIC ZONE OF INDUSTRIAL PRODUCTION ALABUGA (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО ОСОБАЯ ЭКОНОМИЧЕСКАЯ ЗОНА ПРОМЫШЛЕННО-ПРОИЗВОДСТВЕННОГО ТИПА АЛАБУГА) (a.k.a. AKTSIONERNOE OBSHCHESTVO OSOBAYA EKONOMICHESKAYA ZONA PROMYSHLENNO-PROIZVODSTVENNOGO TIPA ALABUGA; a.k.a. AO OEZ PPT ALABUGA (Cyrillic: АО ОЭЗ ППТ АЛАБУГА)), ul. Sh-2 (Oez Alabuga Ter.) 4/1, Yelabuga, Tatarstan 423600, Russia (Cyrillic: ТЕРРИТОРИЯ ОЭЗ АЛАБУГА, УЛИЦА Ш-2, КОРПУС 4/1, Елабужский Район, Республика Татарстан 423600, Russia); Promploshchadka Alabuga, ul. Sh-2, Корп. 4/1, Yelabuga, Volga federal region, Republic of Tatarstan 423600, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 24 Jul 2006; Tax ID No. 1646019914 (Russia); Registration Number 1061674037259; alt. Registration Number 95427882 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of Executive Order 14024 of April 15, 2021, "Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation," 86 FR 20249, 3 CFR, 2021 Comp., p. 542 (Apr. 15, 2021) (E.O. 14024) as amended by Executive Order 14114 of December 22, 2023, "Taking Additional Steps With Respect to the Russian Federation's Harmful Activities," 88 FR 89271 (Dec. 22, 2023) (E.O. 14114), for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

Dated: May 24, 2024.

Bradley T. Smith,

*Director, Office of Foreign Assets Control,
U.S. Department of the Treasury.*

[FR Doc. 2024-12159 Filed 6-3-24; 8:45 am]

BILLING CODE 4810-AL-C

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons

are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Bradley T. Smith, Director, tel.: 202-622-2490; Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or the Assistant Director for Sanctions Compliance, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (<https://www.treasury.gov/ofac>).

Notice of OFAC Actions

On May 30, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810-AL-P

Entities

1. MINING INDUSTRIES SARLU (a.k.a. MINING INDUSTRIES SURL), Entree Rue Maitre Tiangaye, Avenue des Martyrs, 4 EME, Quartierfouh, Bangui, Central African Republic; Organization Type: Mining of other non-ferrous metal ores; Tax ID No. M364135L001 (Central African Republic) [RUSSIA-EO14024] (Linked To: PRIVATE MILITARY COMPANY 'WAGNER').

Designated pursuant to section 1(a)(vii) of Executive Order 14024 of April 15, 2021, "Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation," 86 FR 20249, 3 CFR, 2021 Comp., p. 542 (Apr. 15, 2021), as amended by Executive Order 14114 of December 22, 2023, "Taking Additional Steps With Respect to the Russian Federation's Harmful Activities, 88 FR 89271 (E.O. 14024), for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Private Military Company 'Wagner', a person whose property and interests in property are blocked pursuant to E.O. 14024.

2. LOGISTIQUE ECONOMIQUE ETRANGERE SARLU, Enceinte Mai, Route De Ndres, Quartier Boy-Rabe, Arrondissement 4, Bangui, Central African Republic; Organization Established Date Oct 2020; Organization Type: Non-specialized wholesale trade; Business Registration

Number CA/BG2020B1559 (Central African Republic) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY BROKER EXPERT).

Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, Limited Liability Company Broker Expert, a person whose property and interests in property are blocked pursuant to E.O. 14024.

Dated: May 30, 2024.

Bradley T. Smith,

*Director, Office of Foreign Assets Control,
U.S. Department of the Treasury.*

[FR Doc. 2024-12185 Filed 6-3-24; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of three individuals and three entities that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Bradley T. Smith, Director, tel.: 202-622-2490; Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or the Assistant Director for Compliance, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (<https://www.treasury.gov/ofac>).

Notice of OFAC Action

On May 28, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following individuals and entities are blocked under the relevant sanctions authority listed below.

BILLING CODE 4810-AL-P

Individuals

1. WANG, Yunhe (Chinese Simplified: 王云禾) (a.k.a. WAN, Jack; a.k.a. WANG, Jack; a.k.a. WILSON, William; a.k.a. WONG, Jack; a.k.a. "TRAFFICCARB"; a.k.a. "TRAFFICCASH"), 21 Angullia Park #27-03, Singapore 239974, Singapore; 98/273 31h2 Reflection Jomtien Beach, Pattaya Condo Na Jomtien Sattahip, Chonburi 20250, Thailand; DOB 05 Oct 1988; POB Beijing, China; nationality China; alt. nationality Saint Kitts and Nevis; Gender Male; Digital Currency Address - XBT
bc1q4namcagg5wljs0u20z6h2sqgsq4q5lts8rt2rr; alt. Digital Currency Address - XBT
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Address - XBT bc1qrskwdw9unhlkt87ltcqq2d5pn9s6w2f35gz3z6; alt. Digital Currency Address - XBT 1NaRX1GZgtZ7E8iXo8YUdTnb8rAK5QFJa; Digital Currency Address - ETH 0xe1d865c3d669dcc8c57c8d023140cb204e672ee4; Digital Currency Address - LTC LNF2JDiunBz7GMDKFYHN4rq5meXWxiwfb; Digital Currency Address - TRX TBHTJqAy4DhHmT3dNceJYNRz4SdLofLre; Passport EA2997493 (China); alt. Passport RE0064420 (Saint Kitts and Nevis) issued 10 Nov 2017 expires 09 Nov 2027; National ID No. 110108198810056013 (China) (individual) [CYBER2].

Designated pursuant to Section 1(a)(ii)(D) of Executive Order 13694 of April 1, 2015 "Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities," 80 FR 18077, 3 C.F.R., 2015 Comp., p. 297, as amended by Executive Order 13757 of December 28, 2016, "Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities," 82 FR 1, 3 C.F.R., 2016 Comp., p. 659 (E.O. 13694, as amended) for being responsible for or complicit in, or to have engaged in, directly or indirectly, an activity described in section 1(a)(ii)(D) of E.O. 13694, as amended.

2. LIU, Jingping (Chinese Simplified: 刘京平) (a.k.a. TAYLOR, Jina), 21 Angullia Park #27-03, Singapore 239974, Singapore; 98/273 31H2 Reflection Jomtien Beach, Pattaya Condo Na Jomtien Sattahip, Chonburi 20250, Thailand; 8-102 Baihewan Tongzhou District, Beijing, China; Tong Zhou Qu K2 Bai He Wan 8 Hao Lou 102, Beijing 100000, China; DOB 11 Jul 1965; POB Hunan, China; nationality China; alt. nationality Saint Kitts and Nevis; Gender Female; Passport EA98197210 (China); alt. Passport RE0124671 (Saint Kitts and Nevis) issued 13 May 2022 expires 12 May 2032; National ID No. 110108196507116061 (China) (individual) [CYBER2].

Designated pursuant to E.O. 13694, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of Yunhe Wang, a person whose property and interests in property are blocked pursuant to E.O. 13694, as amended.

3. ZHENG, Yanni (Chinese Simplified: 郑燕妮) (a.k.a. MILLER, Lucy; a.k.a. "SAKURAKO OKUBO"), 98/86 #45A1 Na Chom Thian, Sattahip District, Chon Buri 20250, Thailand; DOB 02 Jul 1973; POB Anshan Liaoning, China; nationality China; alt. nationality Saint Kitts and Nevis; Gender Female; Passport EH4901807 (China); alt. Passport EA5001872 (China); alt. Passport RE0124679 (Saint Kitts and Nevis) issued 13 May 2022 expires 12 May 2032 (individual) [CYBER2].

Designated pursuant to E.O. 13694, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, Yunhe Wang, a person whose property and interests in property are blocked pursuant to E.O. 13694, as amended.

Entities

1. LILY SUITES COMPANY LIMITED, 198/31 Moo 9 Bang Lamung, Chon Buri 20150, Thailand; 198/29 Moo 9, Bang Lamung, Chon Buri 20150, Thailand; Registration Number 020555023446 (Thailand) issued 30 Jul 2012 [CYBER2].

Designated pursuant to E.O. 13694, as amended, for being owned or controlled

by, or for having acted or purported to act for on behalf of, directly or indirectly, Yunhe Wang, a person whose property and interests in property are blocked pursuant to E.O. 13694, as amended.

2. SPICY CODE COMPANY LIMITED, 17/11 Moo 4 Bang Lamung, Chon Buri 20150, Thailand; Registration Number

0205563024758 (Thailand) issued 07 Aug 2020 [CYBER2].

Designated pursuant to E.O. 13694, as amended, for being owned or controlled by, or for having acted or purported to act for on behalf of, directly or indirectly, Yunhe Wang, a person whose property and interests in property are

blocked pursuant to E.O. 13694, as amended.

3. TULIP BIZ PATTAYA GROUP COMPANY LIMITED, 198/29 Moo 9, Bang Lamung, Chon Buri 20150, Thailand; Registration Number 020555018299 (Thailand) issued 13 Jun 2012 [CYBER2].

Designated pursuant to E.O. 13694, as amended, for being owned or controlled by, or for having acted or purported to act for on behalf of, directly or indirectly, Yunhe Wang, a person whose property and interests in property are blocked pursuant to E.O. 13694, as amended.

Bradley T. Smith,

*Director, Office of Foreign Assets Control,
U.S. Department of the Treasury.*

[FR Doc. 2024–12206 Filed 6–3–24; 8:45 am]

BILLING CODE 4810–AL–C

UNITED STATES SENTENCING COMMISSION

Proposed Priorities for Amendment Cycle

AGENCY: United States Sentencing Commission.

ACTION: Notice; request for comment.

SUMMARY: As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the Federal sentencing guidelines, and in accordance with its Rules of Practice and Procedure, the United States Sentencing Commission is seeking comment on possible policy priorities for the amendment cycle ending May 1, 2025.

DATES: Public comment should be received by the Commission on or before July 15, 2024. Any public comment received after the close of the comment period may not be considered.

ADDRESSES: There are two methods for submitting public comment.

Electronic Submission of Comments. Comments may be submitted electronically via the Commission's Public Comment Submission Portal at <https://comment.ussc.gov>. Follow the online instructions for submitting comments.

Submission of Comments by Mail. Comments may be submitted by mail to the following address: United States Sentencing Commission, One Columbus Circle NE, Suite 2–500, Washington, DC 20002–8002, Attention: Public Affairs—Priorities Comment.

FOR FURTHER INFORMATION CONTACT: Jennifer Dukes, Senior Public Affairs Specialist, (202) 502–4597.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p). The Commission provides this notice identifying the possible policy priorities that the Commission expects to focus on during the amendment cycle ending May 1, 2025.

In light of the 40th anniversary of the Sentencing Reform Act of 1984, Public Law 98–473, 98 Stat. 1987 (1984), the Commission intends to focus on furthering the Commission's statutory purposes and missions as set forth in the Sentencing Reform Act, including:

(1) Establishing “sentencing policies and practices for the Federal criminal justice system that . . . assure the meeting of the purposes of sentencing”—namely, rehabilitation, deterrence, just punishment, and incapacitation. 28 U.S.C. 991(b)(1)(A).

(2) Establishing “sentencing policies and practices for the Federal criminal justice system that . . . provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities.” 28 U.S.C. 991(b)(1)(B).

(3) Establishing “sentencing policies and practices for the Federal criminal justice system that . . . reflect, to the extent practicable, advancement of knowledge of human behavior as it relates to the criminal justice process.” 28 U.S.C. 991(b)(1)(C).

(4) “[M]easuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing.” 28 U.S.C. 991(b)(2).

(5) Establishing “general policies and promulgat[ing] such rules and regulations for the Commission as are necessary to carry out” the Commission's statutory missions. 28 U.S.C. 995(a)(1).

(6) Requesting “such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law.” 28 U.S.C. 995(a)(8).

(7) “[S]erving as a clearinghouse and information center for the collection, preparation, and dissemination of

information on Federal sentencing practices.” 28 U.S.C. 995(a)(12)(A).

(8) Devising and conducting “seminars and workshops providing continuing studies for persons engaged in the sentencing field” and “training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process.” 28 U.S.C. 995(a)(17)–(18).

(9) Making “recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy.” 28 U.S.C. 995(a)(20).

(10) Holding “hearings and call[ing] witnesses that might assist the Commission in the exercise of its powers or duties.” 28 U.S.C. 995(a)(21).

(11) Performing “such other functions as are required to permit Federal courts to meet their responsibilities under section 3553(a) of title 18, United States Code, and to permit others involved in the Federal criminal justice system to meet their related responsibilities.” 28 U.S.C. 995(a)(22).

The Commission seeks public comment on what work it should prioritize during the amendment cycle ending May 1, 2025. In particular, the Commission invites the public to recommend specific avenues of research or policymaking that would allow the Commission to fulfill the statutory goals cited above. Commenters are encouraged to provide text of proposed amendments, policy statements, or research agendas that might address the relevant priority. Commenters are welcome to propose lines of work that could be completed in the upcoming amendment cycle, as well as priorities that might require multi-year efforts to complete.

The Commission also seeks comment on the following, more specific proposed priorities:

(1) Continuation of ongoing priorities from prior amendment cycles and possible consideration of amendments that might be appropriate, including continued examination of the career offender guidelines (and alternative approaches to the “categorical approach” in determining whether an offense is a “crime of violence” or a “controlled substance offense”) as well as exploration of ways to simplify the guidelines (including continuation of its work from last amendment cycle on possible amendments to the *Guidelines Manual* to address the three-step process set forth in § 1B1.1 (Application Instructions) and the use of departures

and policy statements relating to specific personal characteristics).
(2) Implementation of any legislation warranting Commission action.

(3) Resolution of circuit conflicts as warranted, pursuant to the Commission's authority under 28 U.S.C. 991(b)(1)(B) and *Braxton v. United States*, 500 U.S. 344 (1991).

(4) Consideration of other miscellaneous issues coming to the Commission's attention.

The Commission also welcomes comment on any additional priorities commenters believe the Commission should consider in the upcoming amendment cycle and beyond.

Pursuant to 28 U.S.C. 994(g), the Commission intends to consider the issue of reducing costs of incarceration and overcapacity of prisons, to the extent it is relevant to any identified priority.

Public comment should be sent to the Commission as indicated in the **ADDRESSES** section above.

Authority: 28 U.S.C. 994(a), (o); USSC Rules of Practice and Procedure 2.2, 5.2.

Carlton W. Reeves,
Chair.

[FR Doc. 2024–12244 Filed 6–3–24; 8:45 am]

BILLING CODE 2210–40–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0688]

Agency Information Collection Activity Under OMB Review: Veterans Affairs Acquisition Regulation, Security for Government Financing

AGENCY: Procurement Policy and Warrant Management Service, Office of Procurement Policy, Systems and Oversight, Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Procurement Policy and Warrant Management Service, Office of Procurement Policy, Systems and Oversight, Office of Acquisition and Logistics, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0688.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Veterans Affairs Acquisition Regulation (VAAR) 832.202–4, Security for Government Financing.

OMB Control Number: 2900–0688
<https://www.reginfo.gov/public/do/PRAsearch>.

Type of Review: Revision of a currently approved collection.

Abstract: Performance of the VA mission may require VA to provide advance payments to contractors. To comply with 41 U.S.C. 4505 requiring the Government to obtain adequate security for Government financing, VA Acquisition Regulation (VAAR) 832.202–4, Security for Government Financing specifies the type of information that the contracting officer may obtain to determine whether or not the offeror's financial condition constitutes adequate security. The information that is gathered under 832.202–4 will be used by the VA contracting officer to assess whether or not the contractor's overall financial condition represents adequate security to warrant paying the contractor in advance.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 20536, March 22, 2024.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 424 hours.

Estimated Average Burden per

Respondent: 30 minutes.

Frequency of Response: 1 per each solicitation.

Estimated Number of Respondents: 847.

(Authority: 44 U.S.C. 3501 *et seq.*)

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–12150 Filed 6–3–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0212]

Agency Information Collection Activity Under OMB Review: Veterans Mortgage Life Insurance Statement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link <https://www.reginfo.gov/public/do/PRAMain>, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0212.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, (202) 461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Veterans Mortgage Life Insurance Statement (VA Form 29–8636).

OMB Control Number: 2900–0212
<https://www.reginfo.gov/public/do/PRAsearch>.

Type of Review: Extension of a currently approved collection.

Abstract: This form is used by veterans who have received Specially Adapted Housing Grants to decline Veterans Mortgage Life Insurance (VMLI) or to provide information upon which the insurance premium can be based. The information requested is authorized by law, 38 U.S.C. 2106.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 20300 on March 21, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 250 hours. *Estimated Number of Respondents:*
Estimated Average Burden per 1,000.
Respondent: 15 minutes.
Frequency of Response: On occasion.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,
*VA PRA Clearance Officer, Office of
Enterprise and Integration, Data Governance
Analytics, Department of Veterans Affairs.*

[FR Doc. 2024–12152 Filed 6–3–24; 8:45 am]

BILLING CODE 8320–01–P



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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Species Status With Critical Habitat for Guadalupe Fatmucket, Texas Fatmucket, Guadalupe Orb, Texas Pimpleback, Balcones Spike, and False Spike, and Threatened Species Status With Section 4(d) Rule and Critical Habitat for Texas Fawnsfoot; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R2-ES-2019-0061;
FXES1111090FEDR-245-FF09E21000]

RIN 1018-BD16

Endangered and Threatened Wildlife and Plants; Endangered Species Status With Critical Habitat for Guadalupe Fatmucket, Texas Fatmucket, Guadalupe Orb, Texas Pimpleback, Balcones Spike, and False Spike, and Threatened Species Status With Section 4(d) Rule and Critical Habitat for Texas Fawnsfoot**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973 (Act), as amended, for the Guadalupe fatmucket (*Lampsilis bergmanni*), Texas fatmucket (*Lampsilis bracteata*), Guadalupe orb (*Cyclonaias necki*), Texas pimpleback (*Cyclonaias* (= *Quadrula*) *petrina*), Balcones spike (*Fusconaia* (= *Quincuncina*) *iheringi*), and false spike (*Fusconaia* (= *Quincuncina*) *mittelli*), and threatened species status for the Texas fawnsfoot (*Truncilla macrodon*), seven species of freshwater mussels from central Texas. We also issue a rule under section 4(d) of the Act for the Texas fawnsfoot that provides measures that are necessary and advisable to provide for the conservation of the Texas fawnsfoot. In addition, we designate critical habitat for all seven species. In total, approximately 1,577.5 river miles (2,538.7 river kilometers) in Blanco, Brown, Caldwell, Coleman, Comal, Concho, DeWitt, Gillespie, Gonzales, Guadalupe, Hays, Kendall, Kerr, Kimble, Lampasas, Llano, Mason, McCulloch, Menard, Mills, Palo Pinto, Parker, Runnels, San Saba, Shackelford, Stephens, Sutton, Throckmorton, Tom Green, Travis, and Victoria Counties, Texas, fall within the boundaries of the critical habitat designation. This rule applies the protections of the Act to these species and their designated critical habitats.

DATES: This rule is effective July 5, 2024.**ADDRESSES:** This final rule is available on the internet at <https://www.regulations.gov>. Comments and materials we received, as well as supporting documentation we used inpreparing this rule, are available for public inspection at <https://www.regulations.gov> at Docket No. FWS-R2-ES-2019-0061.

Availability of supporting materials: Supporting materials we used in preparing this rule, such as the species status assessment report, are available for public inspection at <https://www.regulations.gov> at Docket No. FWS-R2-ES-2019-0061. For the critical habitat designation, the coordinates or plot points or both from which the maps are generated are included in the decision file and are available at <https://www.regulations.gov> at Docket No. FWS-R2-ES-2019-0061.

FOR FURTHER INFORMATION CONTACT:

Karen Myers, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 1505 Ferguson Lane, Austin, TX 78754; telephone (512) 937-7371. 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:**Executive Summary**

Why we need to publish a rule. Under the Act, a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become endangered within the foreseeable future throughout all or a significant portion of its range). If we determine that a species warrants listing, we must list the species promptly and designate the species' critical habitat to the maximum extent prudent and determinable. We have determined that the Guadalupe fatmucket (*Lampsilis bergmanni*), Texas fatmucket (*Lampsilis bracteata*), Guadalupe orb (*Cyclonaias necki*), Texas pimpleback (*Cyclonaias* (= *Quadrula*) *petrina*), Balcones spike (*Fusconaia* (= *Quincuncina*) *iheringi*), and false spike (*Fusconaia* (= *Quincuncina*) *mittelli*) meet the Act's definition of endangered species, and the Texas fawnsfoot (*Truncilla macrodon*) meets the Act's definition of a threatened species; therefore, we are listing them as such, finalizing a rule under section 4(d) of the Act for the Texas fawnsfoot, and designating critical habitat. Both listing a species as an endangered or threatened species

and designating critical habitat can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. This rule makes final the listing of the Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike as endangered species, and the Texas fawnsfoot as a threatened species with a rule issued under section 4(d) of the Act (a "4(d) rule"). In addition, this rule designates critical habitat for all seven central Texas mussel species in 20 units (including 32 subunits) totaling 1,577.5 river miles (2,538.7 river kilometers (km)) on private, State, and Federal property within portions of 31 counties in Texas.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence; we also take into account conservation efforts, such as Candidate Conservation Agreements with Assurances (CCAAs). We have determined that increased fine sediment, changes in water quality, and altered hydrology in the form of inundation and loss of flow and scour of substrate (Factor A), collection (Factor B), predation (Factor C), and barriers to fish movement (Factor E) are the primary threats to these species. These factors are all exacerbated by the ongoing and expected effects of climate change.

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary), to designate critical habitat, to the maximum extent prudent and determinable, concurrent with listing. Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data

available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

Previous Federal Actions

Please refer to the August 26, 2021, proposed rule (86 FR 47916) for a detailed description of previous Federal actions concerning these species.

Peer Review

A species status assessment (SSA) team prepared an SSA report for the Guadalupe fatmucket, Texas fatmucket, Texas fawnsfoot, Guadalupe orb, Texas pimpleback, and false spike. This SSA report was completed prior to the taxonomic divergence of the false spike to reflect the recently described Balcones spike (*Fusconaia iheringi*) (Smith et al. 2020, entire) (see Summary of Changes from the Proposed Rule, below). The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we solicited independent scientific review of the information contained in the SSA report. We sent the SSA report to eight independent peer reviewers and received six responses. Results of this structured peer review process can be found at <https://regulations.gov>. In preparing the proposed rule, we incorporated the results of these peer reviews, as appropriate, into version 1.1 of the SSA report, which was the foundation for the proposed rule and this final rule. A summary of the peer review comments and our responses can be found under Summary of Comments and Recommendations, below.

Summary of Changes From the Proposed Rule

Based upon our review of the public comments, State agency comments, peer review comments, and relevant information that became available since the August 26, 2021, proposed rule published, we updated information in our SSA report, including:

- Updating the taxonomy of false spike (*Fusconaia mitchelli*) to reflect the divergence from the recently described

Balcones spike (*Fusconaia iheringi*) (Smith et al. 2020, entire).

- Updating text to clearly differentiate between the threat of sedimentation to freshwater mussels and naturally occurring turbidity in a river system; improve consistency in the use of “impaired” when discussing water quality; and further differentiate between the threat of sedimentation within a system and the presence of turbidity associated with fine organic or inorganic matter, soluble organic compounds, algae, or other microscopic organisms.

We made these and other changes as appropriate in this final rule. In addition to minor clarifying edits and incorporation of additional information on the species’ biology, populations, and threats, this final determination differs from the August 26, 2021, proposed rule in the following ways:

(1) We add updated population data for the Texas fatmucket, including survey data made available by the Texas Department of Transportation since the publication of the proposed rule. Based on the presence of Texas fatmucket in Unit TXFM-6b (Upper Onion Creek), this unit has now changed from unoccupied to occupied, so we combine the Upper and Lower Onion Creek critical habitat units (TXFM-6b and TXFM-6a, respectively) into one occupied unit (TXFM-6). Therefore, this rule differs slightly from the proposed critical habitat designation (86 FR 47916; August 26, 2021) by unit numbering and occupancy.

(2) Both the Balcones spike and the false spike are included in this final listing rule because the entity known as false spike in the August 26, 2021, proposed rule was taxonomically divided into the two species. We rename and renumber critical habitat units to reflect the updated taxonomy and range of false spike and Balcones spike. We renumber proposed critical habitat unit FASP-4 (Guadalupe River Unit) as FASP-1; it is now the only critical habitat unit for the false spike. The remaining three proposed critical habitat units for the false spike are renamed and renumbered for the Balcones spike: unit FASP-1 (Little River Unit) is now BASP-1, FASP-2 (San Saba River Unit) is now BASP-2, and FASP-3 (Llano River Unit) is now BASP-3.

(3) For the critical habitat designation, we exclude proposed units TXFF-3, TXFF-4, and BASP-1 (previously FASP-1) based on the implementation of conservation measures completed by the Brazos River Authority (BRA) as part of their candidate conservation agreement with assurances (CCAA) for

the Balcones spike and Texas fawnsfoot in the Brazos River Basin (BRA 2021, pp. 35–51; hereafter, the “BRA Agreement”). We also exclude proposed units TXFF-6 and TXPB-6 based upon the implementation of conservation measures completed by the Lower Colorado River Authority (LCRA) as part of their CCAA for the Texas pimpleback, Texas fawnsfoot, Texas fatmucket, and Balcones spike in the Lower Colorado River Basin below O.H. Ivie Reservoir (LCRA 2023, pp. 45–84; hereafter, the “LCRA Agreement”). In addition, we exclude proposed units TXFF-7 and TXFF-8 based upon the implementation of conservation measures completed by the Trinity River Authority (TRA) as part of their CCAA for six species in the Trinity River Basin (TRA 2023, pp. 47–66; hereafter, the “TRA Agreement”).

(4) We incorporate minor changes in the length of river miles (and kilometers) of occupied stream reaches. We also incorporate minor changes in the length of river miles (and kilometers) from the proposed critical habitat to reflect those included in the final critical habitat unit maps. While we use the same start and end points for all final critical habitat unit designations, these minor changes in critical habitat designation length are the result of geoprocessing tools used in ArcGIS.

(5) We include short textual descriptions of the designated units under Regulation Promulgation in this rule, as under 50 CFR 17.94, general descriptions of the location and boundaries of each area may be provided to clarify or refine what is included within the boundaries depicted on the map, or to explain the exclusion of sites (e.g., paved roads, buildings) within the mapped area. These descriptions mirror information in the preamble of this rule, which reflects the unit description information presented in our August 26, 2021, proposed rule as amended by the changes described in this document.

(6) Based on public comments, we update language in the 4(d) rule for the Texas fawnsfoot to clarify and refine the specific prohibitions and exceptions to those prohibitions to minimize potential ambiguity. Specifically, to qualify for exceptions when conducting channel restoration projects, we clarify that the project must meet all applicable Federal, State, and local permitting requirements. In addition, to allow the Service to make arrangements for surveys and potential relocation of any mussels that might be adversely affected during channel restoration projects, we add that notice must be provided to the Service of the location and nature of the

proposed work at least 30 days prior to commencing actual construction within an area designated as critical habitat for the Texas fawnsfoot. In addition, to qualify for exceptions when conducting streambank stabilization projects, we specify that: (i) native live stakes, native live fascines, or native live brush must be used; (ii) methods that include the use of quarried rock (riprap) for more than 25 percent of the area within the streambanks or include the use of rock baskets or gabion structures do not qualify for this exception; (iii) work using these bioengineering methods must be performed at base flow or low water conditions and when significant rainfall likely to result in significant runoff is not predicted at or upstream of the area where work is proposed for a period of at least 3 days after the work is scheduled to be undertaken, in order to reduce streambank erosion and sedimentation; and (iv) the project must meet all applicable Federal, State, and local permitting requirements. Further, to qualify for exceptions when conducting soil and water conservation practices, and riparian and adjacent upland habitat management activities, we add that, to allow the Service to make arrangements for surveys and potential relocation of any mussels that might be adversely affected during channel restoration projects, notice must be provided to the Service of the location and nature of the proposed work at least 30 days prior to commencing actual construction within an area designated as critical habitat for Texas fawnsfoot.

(7) Based on public comments, we update language to include examples of discretionary actions for the central Texas mussels that may be subject to consultation procedures under section 7, and more clearly define the standards for avoiding jeopardizing the continued existence of the species for future section 7 conferences/consultations (see Available Conservation Measures, below). In addition, we update language to include protective regulations to address the threats to the Texas fawnsfoot under section 9, as well as what activities would and would not be likely to constitute a violation of section 9 take prohibition (see Provisions of the 4(d) Rule, below).

(8) Based on a public comments, we also make minor, nonsubstantive changes and corrections throughout this rule in response to public comments. However, the information we received during the public comment period on the proposed rule did not change our determination that the Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike,

and false spike meet the Act's definition of endangered species, and the Texas fawnsfoot meets the Act's definition of a threatened species.

Summary of Comments and Recommendations

In the proposed rule published on August 26, 2021 (86 FR 47916), we requested that all interested parties submit written comments on the proposal by October 25, 2021. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Austin Statesman, and we held public hearings on September 14 and September 16, 2021. All substantive information we received during the comment period has either been incorporated directly into this final determination or is addressed below.

Peer Reviewer Comments

As discussed in Peer Review above, we received comments from six peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the contents of the SSA report. Peer reviewer comments are addressed in the following summary. As discussed above, because we conducted this peer review prior to the publication of our proposed rule, we had already incorporated all applicable peer review comments into version 2.1 of the SSA report, which was the foundation for the proposed rule. The peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve the SSA report (Service 2019b, entire). Peer reviewer comments are addressed in the following summary and are incorporated into the SSA report as appropriate.

(1) *Comment:* One peer reviewer suggested that, in addition to the value limited by the population abundance factor in the overall current condition, the ranges used to assign values to the six condition factors after averaging should be included in the SSA report.

Our response: The overall average current condition of the populations, not limited by the abundance condition, is not reflective of population condition. We chose to limit the overall current conditions so they could not exceed abundance because our information regarding habitat is not robust enough to outweigh abundance (*i.e.*, a mussel population with low abundance but

indications of moderate or high habitat factors should not be rated to be in moderate or high condition). Therefore, reporting the unlimited averages would only cause reader confusion that could be derived from presenting multiple "overall condition" values for each population.

(2) *Comment:* One peer reviewer suggested, particularly for false spike, that the lack of knowledge of host fish could be a factor influencing central Texas mussel distribution and abundance if the host fish is in fact not a common species.

Our response: Following the submission of the draft SSA for peer review, studies were completed identifying the red shiner (*Cyprinella lutrensis*) and blacktail shiner (*Cyprinella venusta*) as host fish for false spike, and both are common fish species in this area (Dudding et al. 2019, p. 16). Host fish for congeners of the mussel species that are the subjects of this rule are a suite of typically common fish species, and therefore it is unlikely that these mussel species rely exclusively on rare fish species to serve as the sole or primary fish hosts for reproduction.

(3) *Comment:* One peer reviewer and one State commenter stated concerns of using 35-millimeter (mm) length to define juveniles, especially the use of the threshold for the generally smaller Texas fawnsfoot, and they requested that the Service revisit the evidence of reproduction criteria, in particular for smaller species.

Our response: We consulted with regional and national freshwater mussel experts from around the United States, and the 35-mm length was considered to be an appropriate delineating threshold to use when differentiating between adult and juvenile mussels. This conclusion was made based on the general consensus amongst those asked that individuals below 35 mm in length are not readily detectable during field surveys. Without species-specific data identifying the known size at age of sexual maturity for the subject species, we found it appropriate to consistently use the same cutoff for multiple species if no species-specific data were available. As these data become available, we will update these criteria as appropriate.

Comments From States

(4) *Comment:* One commenter requested that the Service emphasize desiccation study data completed at the San Marcos Aquatic Resources Center that demonstrate that Texas pimpleback is able to tolerate 32 days without water and the Texas fatmucket can tolerate about 3 days without water.

Our response: The desiccation trials mentioned by the commenter were conducted in a laboratory growth chamber at 25 degrees Celsius (°C) (77 degrees Fahrenheit (°F)) and the relative humidity is not reported (Bonner et al. 2018, p. 193). Presumably, live freshwater mussels experiencing dewatering occurring in the natural environment would be exposed to temperatures greater than 25 °C (77 °F), especially during summer, when drying events are most likely to occur. Additionally, exposed animals would be susceptible to predation. Therefore, while we report the results of the desiccation study, emphasizing them could erroneously create an inaccurate representation of the conditions that exposed mussels would experience and artificially inflate the exposure time during which mussels could be expected to survive in the wild.

(5) *Comment:* The State of Texas disagrees with the finding that there are no federalism implications for the designation of critical habitat.

Our response: Federalism is the division and sharing of power between the Federal Government and the individual State governments. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, the proposed critical habitat designation with appropriate State resource agencies throughout central Texas. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, this final rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. In accordance with Executive Order 13132 (Federalism), this rule does not have significant federalism effects, and a federalism summary impact statement is not required.

(6) *Comment:* The State of Texas requested clarification on whether the completion of an approved freshwater mussel identification and sampling course and proficiency testing will be required for scientists with a permit issued under section 10(a)(1)(a) of the Act (a “10(a)(1)(a) permit”), and whether the 4(d) rule will allow qualified individuals to relocate Texas fawnsfoot.

Our response: The provision of the 4(d) rule that allows for Texas fawnsfoot surveys to be conducted by those who pass an approved Texas mussel identification and sampling course is intended for those who are sampling for freshwater mussels, in which mussels are collected, identified, and returned to the mussel bed from which they came. Surveyors who are trained in survey techniques and how to identify the various species that occur in Texas will not need a 10(a)(1)(a) permit because we expect the effects to the species to be negligible. This provision in the 4(d) rule is not intended to replace the 10(a)(1)(a) permit process, and those with a 10(a)(1)(a) permit will not be required to complete the course. Furthermore, relocation of Texas fawnsfoot from one mussel bed to another is not an excepted form of take under this 4(d) rule.

(7) *Comment:* The State of Texas suggested that naturally occurring ambient water quality should be considered in the context of historical water quality, and laboratory thresholds reported for temperature, salinity, chlorides, and dissolved oxygen should be considered when identifying essential water quality thresholds as components of critical habitat.

Our response: The objective use of laboratory-based studies, in addition to in situ monitoring, is critical to the understanding of physiological and toxicological thresholds for freshwater mussels. Even though certain ambient water quality parameters are currently occurring in the presence of live freshwater mussels, there is no clear indication that these parameters are protective of freshwater mussels, as different life stages of the species are more sensitive to water quality changes than others (*i.e.*, glochidia and juveniles are more sensitive than adults). Freshwater mussel populations throughout the State of Texas have declined in recent decades, and the presence of reduced or restricted mussel populations should not be used as an indicator that instream conditions are adequate for the long-term persistence of the population. The completion of laboratory studies can provide objective thresholds for individual chemicals, temperatures, or other water quality parameters for both lethal and sublethal effects on individual freshwater mussel species. When identifying the physical or biological features related to water quality for the mussels, we set the thresholds at levels that have been objectively identified as protective of the mussels. Therefore, laboratory-derived values were selected when identifying these components rather

than utilizing observed ambient values, which, as described above, may not be protective of all the covered species life stages.

(8) *Comment:* The State of Texas requested clarification on how increased extreme precipitation is projected to have divergent effects on future high stream flows in different rivers, as the Service has predicted for the Llano River and Middle Trinity River.

Our response: Different river basins experience different conditions that affect the future of flows within those basins. For the Llano River, while there have been recent significant high flow events, recent trends in stream flows in the river have shown an overall reduction in flows in the basin. These reductions are expected to continue in response to climate change (reduced projected rainfall) and expanding development in Texas (groundwater pumping). Conversely, the Trinity River is anticipated to experience increases in flows in the future due to the growth of the Dallas-Fort Worth metroplex and its reliance on surface waters. Water resources that historically would have been distributed across the landscape in north Texas have been consolidated into an assortment of wastewater treatment and water supply system with many return flows feeding into the Trinity River. These return flows combine to elevate the baseflows of the Trinity River at all times (TRA 2023, pp. 23, 25–27) and can combine with rain events, leading to higher high flow events.

(9) *Comment:* The State of Texas provided recommendations for clarification of the physical or biological features (PBFs) essential to the conservation of the central Texas mussels, particularly the PBFs concerning the identification of specific elements of the flow regimes considered essential, adaptive flexibility in defining host fish for the subject mussel species, and the number of sample events required (single or multiple) to evaluate the ranges of water quality parameters.

Our response: For the flowing water PBF, we welcome additional research on the identification of specific flow regime elements needed for the long-term conservation of these mussel species. However, this information does not currently exist, and so we could not use specific flow rates when developing the PBFs for the species. We are actively working with external partners who are researching the role of stream flows on Texas fatmucket growth and survival in the Colorado River Basin, and we will use these findings as we develop recovery plans for the species.

For the host fish PBF, we must use the best available information when

identifying essential PBFs, and the current science indicates that sunfishes (including bluegill (*Lepomis macrochirus*), green sunfish (*L. cyanellus*), Guadalupe bass (*Micropterus treculii*), and largemouth bass (*M. salmoides*)), freshwater drum (*Aplodinotus grunniens*), catfish (channel catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis olivaris*), and tadpole madtom (*Noturus gyrinus*)), minnows (family Cyprinidae), and shiners (blacktail shiner (*Cyprinella venusta*) and red shiner (*C. lutrensis*)) are hosts for the central Texas mussel species. Additional host fish species identified for these mussels will be incorporated into the recovery planning process.

Finally, for the PBF that relates to water quality, it can be challenging to provide specific thresholds for water quality parameters because effects to freshwater mussels can range from sublethal to lethal depending on the duration of the exposure to conditions as well as the time of year, flow rates, and other factors. Currently, species-specific toxicology studies have not been completed for the species included in this rule. Therefore, currently, the Service is using surrogate acute water quality standards from other freshwater mussel species in the United States to identify physical features for designated critical habitat. As the species-specific acute and chronic standards are developed for the covered species, the Service will revisit and refine the characteristics of these water quality features. Once these standards are developed, the Service will work with subject matter experts to identify the appropriate sampling techniques to evaluate the acceptable thresholds for water quality parameters, and work with project proponents to ensure that the most appropriate methods will be used to determine effects on listed freshwater mussels on a project-by-project basis.

(10) *Comment:* The State of Texas and several commenters requested that the Service more clearly identify the estimated probability of persistence (threshold) that would preclude a listing decision.

Our response: The “probability of persistence” is just one small part of our SSA report that informed our analysis and listing decision, which also considered the factors identified by the Act (such as a species’ life history, generation time, current and future threats, and trajectory of those threats). There is not a strict probability above which we would not list and below which we would list, particularly because the information we use to assess the species’ persistence is of a

general nature and does not pinpoint the likelihood of persistence to the degree we would require to provide certainty that that the species persistence was above or below such a threshold. Therefore, “probability of persistence” alone is not going to result in a decision that a species meets the definition of threatened or endangered.

(11) *Comment:* The State of Texas and several commenters are concerned about the economic impact that proposed critical habitat would have on private landowners, private property values, and wastewater treatment plants (WWTPs), suggesting that the incremental effects memo (IEM) only captures baseline costs, and not the total costs associated with critical habitat designation. The commenters requested that prior to publishing a final rule, the Service conduct a new economic analysis, using the coextensive approach.

Our response: As stated in the economic analysis of the designation of critical habitat for the Central Texas mussels, guidelines issued by the U.S. Office of Management and Budget (OMB) for the economic analysis of regulations direct Federal agencies to measure the costs and benefits of a regulatory action against a baseline (*i.e.*, costs and benefits that are “incremental” to the baseline). The OMB defines the baseline as the “best assessment of the way the world would look absent the proposed action.” (Circular A–4, 2003). In other words, the baseline includes any existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users affected by the designation of critical habitat. The baseline includes the economic impacts of listing the species under the Act, even if the listing occurs concurrently with critical habitat designation. Impacts that are incremental to the baseline (*i.e.*, occurring over and above existing constraints) are those that are solely attributable to the designation of critical habitat and are the focus of the economic analysis.

The Service acknowledges that significant debate has occurred regarding whether assessing the impact of critical habitat designations using the incremental approach is appropriate, with several courts issuing divergent opinions. Most recently, the U.S. Ninth Circuit Court of Appeals concluded that the incremental approach is appropriate, and the U.S. Supreme Court declined to hear the case (*Home Builders Association of Northern California v. United States Fish and Wildlife Service*, 616 F.3d 983 (9th Cir. 2010), cert. denied, 179 L. Ed 2d 301,

2011 U.S. Lexis 1392, 79 U.S.L.W. 3475 (2011); *Arizona Cattle Growers v. Salazar*, 606 F.3d 1160 (9th Cir. 2010), cert. denied, 179 L. Ed. 2d 300, 2011 U.S. Lexis 1362, 79 U.S. L.W. 3475 (2011)). Subsequently, on August 28, 2013, the Service revised its approach to conducting impact analyses for designations of critical habitat, specifying that the incremental approach should be used (78 FR 53062).

Public Comments

(12) *Comment:* A commenter suggested that the reliance on data regarding recently dead shell material that are up to 21 years old, combined with the difficulty to detect mussels at sites that are not visited multiple times, is insufficient to define areas occupied at the time of listing and designate those areas as critical habitat for the Texas fatmucket, Texas fawnsfoot, and Texas pimpleback.

Our response: While the Service used the year 2000 as the oldest year for “recent” survey data, much of the survey data used during the review of the species that are the subjects of this rule were collected during the increase in sampling efforts following the 2010 State listing of these species as threatened by the Texas Parks and Wildlife Department (TPWD). Therefore, much of the data used for the SSA were closer to 10 years old when we were developing the August 26, 2021, proposed rule. However, in instances in which the data were in fact collected approximately 20 years ago, the time gap between the data collection and proposed rule would be between 1 and 3 generations for these species. Because the Service has not been notified of or witnessed rapid, substantial, permanent habitat changes or been provided evidence of recent mussel die-offs through the collection of large numbers of fresh-dead (shells still attached to soft tissue) or recent dead (shells lacking connection to soft tissue but still containing a shiny inner shell layer), it is reasonable to conclude that these occupied areas would still be occupied by the species at some level.

Much of the freshwater mussel sampling that has been completed in Texas to date has consisted of single, opportunistic surveys as part of larger research projects or environmental compliance surveys completed prior to some form of instream construction rather than monitoring events that would require multiple visits to individual sites. While multiple visits to a site will provide a clearer picture of population abundance and extent, a single visit is often sufficient to

determine occupancy if the species is present at that time.

(13) *Comment:* A commenter stated that the proposed critical habitat designation does not include an initial regulatory flexibility analysis to satisfy the requirements of the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), and the Service has not prepared an environmental impact statement to satisfy the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

Our response: When a species is proposed for listing, the Act's section 4(a)(3) requires the Secretary of the Interior (Secretary), to the maximum extent prudent and determinable, to designate critical habitat for that species. For more information about the considerations we must undertake when designating critical habitat, see and Consideration of Impacts under Section 4(b)(2) of the Act and *Regulatory Flexibility Act* (5 U.S.C. 601 *et seq.*), below.

Under the Regulatory Flexibility Act (RFA), Federal agencies are only required to evaluate the potential incremental impacts of a rulemaking on directly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried by the Agency is not likely to adversely modify critical habitat. Therefore, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Under these circumstances, it is the Service's position that only Federal action agencies will be directly regulated by this designation. Therefore, because Federal agencies are not small entities, the Service may certify that the proposed critical habitat rule will not have a significant economic impact on a substantial number of small entities. Because certification is possible, no regulatory flexibility analysis is required.

Upon recommendation of the Council on Environmental Quality (CEQ), the Service determined that NEPA documents need not be prepared in connection with regulations finalizing the listing status for species pursuant to section 4(a) of the Act. This critical habitat designation is issued concurrently with the listing of the species under section 4(a). On October 25, 1983, the Service published in the **Federal Register** a notice explaining this decision (48 FR 49244). The Service

subsequently interpreted this 1983 determination to apply to critical habitat designations, based on the decision delivered in a Sixth Circuit Court of Appeals case (*Pacific Legal Foundation v. Andrus*, 657 F. 2d 829 (1981)) and CEQ's recommendation.

Based on this interpretation, the Service did not conduct NEPA analyses on critical habitat designations between 1983 and 1998. However, since the mid-1990s, the question of whether NEPA applies to the Federal action of designating critical habitat under the Act has been the subject of multiple lawsuits. In *Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), the U.S. Court of Appeals for the Ninth Circuit upheld the Service's conclusion that critical habitat actions are exempt from NEPA compliance. The Service was again challenged on this conclusion in *Catron County Board of Commissioners v. U.S. Fish and Wildlife Service*, 75 F.3d 1429 (10th Cir. 1996) (*Catron County*); the U.S. Court of Appeals for the Tenth Circuit ordered the Secretary to comply with NEPA when completing critical habitat determinations. The DC District Court in *Cape Hatteras Access Pres. All. v. U.S. Dep't of Interior*, 344 F. Supp. 2d 108 (D.D.C. 2004) similarly held that NEPA applied to critical habitat designations. However, more recently, the Fifth Circuit Court of Appeals agreed with the Ninth Circuit and held that NEPA does not apply to critical habitat designations under the Act (*Markle Interests v. FWS*, 827 F.3d 452 (5th Cir. 2016), *rev'd on other grounds sub nom. Weyerhaeuser v. U.S. Fish and Wildlife Service*, 139 S. Ct. 361 (2018)). Other district courts have applied this reasoning as well (*e.g., Otay Mesa Property, LP v. U.S. Department of the Interior*, 144 F. Supp. 3d 35 (D.D.C. 2015)).

While the Service does not concede that NEPA applies to critical habitat designations or revisions under the Act, we agreed to address NEPA compliance for critical habitat designations when the range of the species occurs within the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, which includes the following States: Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming. The central Texas mussels' critical habitat designations do not occur within the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, so we did not prepare an environmental assessment under NEPA for this designation.

(14) *Comment:* A commenter requested that proposed critical habitat unit TXFM-2 (San Saba River) for the Texas fatmucket be limited to the upper section of the San Saba River, as it is the

only segment of the river that has the PBFs essential to the conservation of the species. Because the middle reach of this critical habitat unit lacks an adequate hydrologic flow regime, which is an essential PBF, and this flow regime is not expected to improve under current predictions of increasing periods of drought, and the species does not currently exist in the lower reach of the San Saba River, they requested these middle and lower reaches of the San Saba River be removed from final critical habitat designation.

Our response: Based on recent survey data, we consider this reach to be currently occupied by the species. Despite the anticipated future threats to water levels in the middle San Saba River and the Hill Country as a whole, live Texas fatmucket have been observed at multiple locations in the middle reach of the San Saba River in the last 10 years. Historical collection records provide evidence that the species has also occurred in the past in the lower reach of the San Saba River near San Saba, Texas. We acknowledge that the unique geology of the middle reach of the San Saba River presents conservation challenges concerning flowing water (an essential PBF) in the lower reach of the river, but this unit currently contains adequate flowing water, suitable substrate, appropriate host fish, and adequate water quality, and recovery will entail restoring the species to reaches of habitat long enough such that stochastic events do not eliminate the entire population. The lower reach of the San Saba does not present these geological challenges and contains the essential PBFs needed to support the species in this portion of the San Saba River. The middle and lower reaches of the San Saba River add approximately 69 river miles (mi) (111 river kilometers (km)) of habitat to the population, they would increase the overall resiliency of the population.

(15) *Comment:* A commenter stated that the Service lacks enough species-specific information to designate critical habitat, particularly in unoccupied areas, and that the proposed rule fails to show that designated critical habitat is determinable.

Our response: We are required to designate critical habitat based on the best scientific data available at the time of designation. We considered the best scientific data available regarding the central Texas mussels to evaluate potential critical habitat under the Act. We have sufficient information to understand the habitat these species need and where the species occur, and we solicited peer review on our evaluation of that information. The

listing and critical habitat process does not require perfect information; it requires that we use the best available information to make our determinations. Therefore, we found that critical habitat was determinable in both occupied and unoccupied areas.

(16) *Comment:* Several commenters requested that critical habitat designation for endangered species be limited to occupied reaches.

Our response: The Act defines critical habitat under section 3(5)(A) and allows for the designation of areas within and outside the geographical areas occupied by the species at the time of listing. There is no statutory requirement to limit critical habitat areas to only occupied areas. The Act requires that areas outside the geographical area occupied by the species be essential for the conservation of the species.

We have determined that unoccupied units are essential for the conservation of the Texas fatmucket and Texas pimpleback because they provide for the growth and expansion of the species within portions of their historical ranges. We identified areas outside the geographical areas currently occupied by the Texas fatmucket and Texas pimpleback as critical habitat in order to increase the stream length of critical habitat designations adjacent to existing small populations. These unoccupied areas are located immediately adjacent to currently occupied stream reaches, include one or more of the essential PBFs, and allow for expansion of existing populations necessary to improve population resiliency, extend physiographic representation, and reduce the risk of extinction for the species. The establishment of additional moderately healthy to healthy populations across the range of these species would reduce their risk of extinction. Improving the resiliency of populations in the currently occupied streams, and into identified unoccupied areas, will increase species viability. See Criteria Used to Identify Critical Habitat, below.

(17) *Comment:* Commenters requested that additional unoccupied areas be designated as critical habitat. These areas included the upstream portions of the Llano River in Edwards County, Texas, lower reaches of the Llano River, downstream of the City of Llano in Llano County, Texas, and Johnson Creek, which flows into the Guadalupe River in Kerr County, Texas.

Our response: After identifying areas occupied by the species at the time of listing, we will identify specific areas outside the geographical area occupied by the species at the time of listing that the Secretary determines are essential

for the conservation of the species. We evaluated the upstream portions of the South Llano River located in Edwards County and found that this reach of the river does not consistently remain wetted and does not provide suitable habitat through large portions of the stream in Edwards County and is not essential for the conservation of the species. Therefore, we did not designate the area as critical habitat. We evaluated the lower reaches of the Llano River near the river's confluence with the Little Llano River; these reaches are bookended by a dam in the City of Llano used for drinking water and a low-head dam which impounds Robinson Lake. Any suitable habitat between the two structures would be isolated from other existing populations due to stretches of unsuitable habitat and impairment of fish passage and therefore is not essential for the conservation of either Texas pimpleback or Texas fatmucket. Therefore, for the central Texas mussels, other than the unoccupied areas noted in this rule (TXFM-1c, TXFF-1b, TXPB-1a, and TXPB-5b), we are not designating additional areas outside the geographical area occupied by the species because we have not identified any additional unoccupied areas that meet the definition of critical habitat at this time.

(18) *Comment:* One commenter stated that proposed critical habitat unit TXFM-1 does not meet the criteria established for critical habitat since it does not contain all the PBFs described in the proposed rule as essential to the conservation of the species.

Our response: In areas occupied at the time of listing a species as endangered or threatened, critical habitat is the specific areas on which are found the physical or biological features (PBFs) that are essential to the conservation of the species and that may require special management considerations or protection. It is not required that an area contain all PBFs in order to qualify as critical habitat. Unit TXFM-1 contains multiple PBFs (e.g., presence of suitable substrates, connected instream habitats, and presence of host fish), and while the unit may need special management considerations to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity, it meets the definition of critical habitat for the Texas fatmucket.

(19) *Comment:* A commenter requested that the Service revise its discussion of water quality in the lower Colorado River mainstem below Austin to state that, according to the Texas Commission on Environmental Quality's (TCEQ's) 2020 Integrated Report (TCEQ 2020; entire), all water

quality parameters being monitored are meeting the Texas Surface Water Quality Standards, and there are no impairments.

Our response: Impairment, as defined through the Texas Surface Water Quality Standards, can differ from biological requirements for individual species. Because a stream reach meets legal standards for water quality parameters does not mean that the water quality meets the needs of the species. While we understand that the entire lower Colorado River mainstem below Austin may not experience conditions that are impacting freshwater mussel growth and survival, we feel that it is important to acknowledge that these conditions can exist at times in the reach of the river. For example, TCEQ produces an integrated report every 2 years that sets the ammonia criterion to denote impairment in segments of the Colorado River and includes any exceedances of this criteria (TCEQ 2022, entire). Chronic ammonia toxicity studies have shown that juvenile freshwater mussel species experience significant reductions in growth and survival when exposed to ammonia concentrations below these levels (Wang et al. 2007, p. 2054). Data presented in the TCEQ 2022 report would place the observed significant reductions in growth below the exceedance threshold of 0.33 milligrams per liter (mg/L) and reductions in survival near the observed exceedance mean value of 0.45 mg/L.

(20) *Comment:* Commenters requested more discussion of the threat of extended low-flow conditions in the lower Colorado River Basin.

Our response: There are threats of extended low-flow conditions in the lower reaches of the lower Colorado River Basin, and we are actively working with the LCRA on the implementation of the LCRA Agreement, which includes conservation measures that would help further understand, avoid, and minimize the threat of low-flow conditions to freshwater mussels in this river basin.

The 2020 LCRA Water Management Plan (WMP) allocates a portion of its "firm water" supply to meet environmental flow needs within the lower Colorado River Basin (LCRA 2020, pp. ES-2–ES-3). These needs are determined through calculated monthly subsistence flow values and are based on results of an instream flow study in 2008 (Bio-West 2008, pp. 69–90) that investigated the flow relationships to aquatic habitat and the State-threatened blue sucker (*Cycleptus elongatus*), and they are consistent with the Texas Instream Flow Program methodology

(LCRA 2020, p. 2–2). While this 2008 study did not specifically focus on the habitat needs of freshwater mussels, a subsequent study in 2018 determined that the subsistence flows standards set by the WMP were adequate to protect instream freshwater mussel habitat during the periods expected to receive the lowest flow conditions (August; 107 cubic feet per second at the Wharton U.S. Geological Survey (USGS) gauge) (Bonner et al. 2018; entire). The LCRA Agreement states that an amendment to the 2020 WMP, which will consider additional information regarding flow or temperature needed for freshwater mussels or host fish, if available during that amendment process, is expected to occur not later than March 1, 2025 (LCRA 2023, pp. 60–63). While these flow assurances cannot entirely remove the threat of low flow conditions in the lower Colorado River, they can reduce the threat and ameliorate the instream conditions during these periods.

(21) *Comment:* A commenter stated that candidate conservation agreements with assurances (CCAAs) do not provide sufficient certainty of benefits to the species because they have limited authority, focus on a subset of the threats, allow permittees to withdraw at any time, and do not ensure future conditions. The commenter, therefore, requests that CCAAs not be used as a basis for critical habitat exclusions in the final rule.

Our response: We evaluate whether an area should be excluded from critical habitat based on whether the benefits of exclusion outweigh the benefits of inclusion. As outlined in our Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act (81 FR 7226), when we undertake a discretionary 4(b)(2) exclusion analysis, we will always consider areas covered by a permitted candidate conservation agreement with assurances (CCAA) and anticipate consistently excluding those areas from a critical habitat designation if incidental take caused by the activities in those areas is covered by the permit under section 10 of the Act and the CCAA meets all of the following conditions: the permittee is properly implementing the agreement and is expected to do so for the term of the agreement; the species for which critical habitat is being designated is a covered species in the agreement; and the agreement specifically addresses the habitat of the species for which critical habitat is being designated and meets the conservation needs of the species in the planning area.

We have determined that the BRA Agreement (BRA 2021, entire), LCRA Agreement (LCRA 2023, entire), and

TRA Agreement (TRA 2023, entire) fulfill the above criteria, and we are excluding from this critical habitat designation some non-Federal lands covered by these three CCAAs that provide for the conservation of the Texas fawnsfoot, Texas pimpleback, and Balcones spike. The LCRA Agreement also provides for the conservation of Texas fatmucket. However, because no critical habitat units for the Texas fatmucket fall within reaches where the LCRA Agreement can directly reduce the primary threat of low water quantity, we have not excluded any proposed critical habitat for the Texas fatmucket based on the LCRA Agreement. Additionally, within the BRA and LCRA CCAAs, some non-Federal lands are included in the CCAAs' Covered Areas that we did not exclude from designated critical habitat (*i.e.*, river miles above Possum Kingdom Reservoir and river miles above the Highland lakes in the BRA and LCRA CCAAs respectively). These areas were not excluded because while the BRA and LCRA CCAAs provide overall net conservation benefits for the covered species, threat reduction efforts included as conservation measures within the agreements target other locations of their respective basins.

Possum Kingdom Reservoir represents the most upstream BRA-operated infrastructure in the Brazos River Basin. The BRA has no infrastructure and limited interests above Possum Kingdom reservoir, and therefore, has no way to directly influence freshwater mussel populations or their habitats in this portion of the basin (BRA 2021, p. 15). Regarding the LCRA CCAA, with the exception of two reservoirs LCRA owns and operates for purposes of power plant cooling which are not included in the critical habitat designation, LCRA does not own or operate any other water infrastructure on any tributaries or on the main stem of the Colorado River upstream of Lake Buchanan or on other tributaries or river segments that contribute flow to the Highland Lakes or the Colorado River within LCRA's broader service area.

The development and maintenance of effective working partnerships with non-Federal partners for the conservation of at-risk species is particularly important in areas such as Texas, a State with relatively little Federal landownership and many species of conservation concern. We find that excluding areas from critical habitat that are receiving long-term conservation and management for the purpose of protecting the habitat that supports the Texas fawnsfoot, Texas pimpleback, and Balcones spike will

preserve our external partnerships in Texas and will encourage future collaboration towards conservation and recovery of listed species.

Because the agreements are voluntary, they demonstrate the commitment of the partners to the conservation actions; the CCAA process takes time and effort to put in place, and the agreement must result in a net conservation benefit to the species. The partnership benefits are significant and outweigh the potential regulatory, educational, and ancillary benefits of including the land in the final critical habitat designation for these three species; in addition, the subject areas are occupied by the species, so there is less incremental benefit to the unit being included in the critical habitat designation. Therefore, the BRA Agreement, LCRA Agreement, and TRA Agreement provide greater protection of habitat for the Texas fawnsfoot, Texas pimpleback, and Balcones spike than could be gained through the project-by-project analysis under a critical habitat designation.

(22) *Comment:* A commenter claimed that our proposed 4(d) rule was arbitrary and capricious because we did not assess the costs and benefits of the rule and therefore did not establish that the proposed 4(d) rule was necessary and advisable.

Our response: The Act clearly prohibits the Service from considering economic or similar information when making listing, delisting, or reclassification decisions. Congress added this prohibition in the 1982 amendments to the Act when it introduced into section 4(b)(1) an explicit requirement that all decisions under section 4(a)(1) of the Act be based “solely on the basis of the best scientific and commercial data available.” Congress further explained this prohibition in the Conference Report accompanying the 1982 Amendments: “The principal purpose of these amendments is to ensure that decisions in every phase of the process pertaining to the listing or delisting of species are based solely upon biological criteria and to prevent non-biological considerations from affecting such decisions. These amendments are intended to expedite the decision-making process and to ensure prompt action in determining the status of the many species which may require the protections of the Act.” (H.R. Conf. Rep. No. 97–835, at 19 (1982).)

Therefore, following statutory framework and congressional intent, we do not conduct or develop economic impact analyses for classification decisions. Additionally, 4(d) rules concurrently issued with a classification rule are inherently a part of a

classification decision for a threatened species and therefore, a consideration of economic impacts does not apply. If we determine that a species meets the Act's definition of a threatened species, part of our consideration for completing the listing process is to consider what measures are necessary and advisable to provide for the conservation of the species under section 4(d) of the Act. We, therefore, consider a 4(d) rule to be a necessary phase of the listing process to put in place protections for threatened species.

(23) *Comment:* Commenters expressed concerns that threatened status may be insufficient for the Texas fawnsfoot and recommended it be assigned endangered status.

Our response: The Act defines "endangered species" and "threatened species" and mandates five factors for consideration when determining a species' status under the Act. We have determined that endangered species status under the Act is not appropriate for the Texas fawnsfoot because the species maintains multiple, moderately resilient populations across its historical range with low risk of significant decline in the near term. Further, given its distribution and the health of its populations, the Texas fawnsfoot has sufficient redundancy and representation to withstand catastrophic events and novel changes in its environment in the near term. For these reasons, the Texas fawnsfoot is not currently in danger of extinction; it is, however, at risk of extinction in the foreseeable future because even under the best conditions, and with additional conservation efforts undertaken, given the ongoing effects of climate change and human activities on altered hydrology and habitat degradation, within 25 to 50 years, we expect only one population to be in healthy condition, one population to remain in moderately healthy condition, four populations to be in unhealthy condition, and one population to become functionally extirpated. Given the likelihood of increased climate and anthropogenic effects in the foreseeable future, as many as three populations are expected to become functionally extirpated, leaving no more than four unhealthy populations remaining after 25 years. See *Determination of Status: Texas Fawnsfoot*, below.

(24) *Comment:* A commenter requested that all species be listed as threatened to better promote voluntary habitat conservation.

Our response: The Act requires us to make a listing determination using the best available scientific and commercial data after conducting a review of the

status of the species. The primary difference between an endangered species and a threatened species is the timing of the risk of extinction. An "endangered species" is one that is in danger of extinction throughout all or a significant portion of its range. A "threatened species" is one that is likely to become endangered within the foreseeable future throughout all or a significant portion of its range; therefore, it is not currently in danger of extinction. After evaluating threats to the central Texas mussel species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we found that Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike have declined significantly in overall distribution and abundance. At present, most of their known populations exist in very low abundances and show limited evidence of recruitment. Furthermore, existing available habitats are reduced in quality and quantity, relative to historical conditions. We found that, for these six species, the threats are currently occurring and result in the species being in danger of extinction now. Therefore, a threatened status determination for these species would not be appropriate. The difference between endangered and threatened does not affect our ability to encourage voluntary conservation.

The listing of a species does not obstruct the development of conservation agreements or partnerships to conserve the species. Once a species is listed as either endangered or threatened, the Act provides many tools to advance the conservation of listed species. Conservation of listed species in many parts of the United States is dependent upon working partnerships with a wide variety of entities, including the voluntary cooperation of non-Federal landowners. Building partnerships and promoting cooperation with landowners are essential to understanding the status of species on non-Federal lands and may be necessary to implement recovery actions, such as reintroduction of listed species, habitat restoration, and habitat protection. Once a species is listed, for private or other non-Federal property owners, we offer voluntary safe harbor agreements that can contribute to the recovery of species, habitat conservation plans that allow activities (e.g., grazing) to proceed while minimizing effects to species, funding through the Partners for Fish and Wildlife Program to help promote conservation actions, and grants to the States under section 6 of the Act.

(25) *Comment:* A commenter stated concerns that the Service focused on

recent trends when modeling the impacts of climate change and disagreed that climate change will exacerbate identified threats in central Texas.

Our response: Experts anticipate that climate change will lead to decreased water availability in Texas due to increased frequency and intensity of drought conditions in the State. During drought periods, pressure on freshwater resources, particularly increased evaporation in reservoirs and higher demands on groundwater pumping, in the State will lead to a decline in instream flows. Decreased instream flows correlate with increases in instream temperatures. In the SSA report, we relied upon numerous studies that have identified the effects of increased temperature on the growth, fitness, and survival of freshwater mussels (Bonner et al. 2018, p. 6; Ganer et al. 2015, p. 1712; Spooner and Vaughn 2008, pp. 312–313; Service 2022, p. 10). The combination of declines in instream flows and increasing temperatures of the remaining flows are anticipated to have a negative impact on remaining freshwater mussel populations.

(26) *Comment:* A commenter questioned whether mussels are actually declining due to human development and suggests that declines may have been occurring prior to human contact.

Our response: While mussel populations surely ebbed and flowed prior to human development, it is well established that widespread declines of freshwater mussels have occurred in the last 50 to 75 years (Haag 2019, p. 43; Haag 2012, pp. 316–390). Through a combination of long-term monitoring and evidence in the historical record, it is clear that the decline of freshwater mussels is closely tied to advances in human infrastructure development (Haag 2012, pp. 316–390). In some cases, the ties can be closely pinpointed to the construction of a single structure (e.g., large, power-generating hydrodam) and a resulting decline and eventual extirpation of an upstream freshwater mussel population (e.g., extirpation of the elephant ear (*Elliptio crassidens*) population in the Upper Tennessee Basin following habitat fragmentation in tributaries of the Tennessee River (Johnson et al. 2012a, p. 89)). Regardless of whether declines occurred prior to human development, the declines of the central Texas mussel species in the recent past are well documented.

(27) *Comment:* A commenter requested clarification on whether the artificially sustained wastewater effluent flows are beneficial or detrimental to the central Texas mussels.

Our response: Artificially sustained effluent flows can be beneficial to freshwater mussels by providing flow in low-flow and drying areas where mussels might otherwise desiccate. However, effluent flows can also be detrimental to freshwater mussels if the effluent water quality is poor. We consider both water quantity and quality when evaluating effluent and its impact on mussels. Parameters for healthy water quality and water quantity are defined in the SSA report (Service 2022, pp. 6–10), and we use these benchmarks as we evaluate the species' status now and in the future.

(28) *Comment:* A commenter disagreed that pesticides originating from agricultural sources are a pollutant of concern at levels experienced in the natural environment.

Our response: Pesticides have been demonstrated to have both lethal and non-lethal effects on freshwater organisms, including freshwater mussels around the world (Milam et al. 2005, pp. 169–172; Bringolf et al. 2007a, p. 2099, 2007b, pp. 2105–2106, 2007c, p. 2092; Chmiste et al. 2019, pp. 439–440). These studies have been completed for multiple, freshwater mussel life stages, including glochidia, juveniles, and adults, and have documented the harmful effects of a variety of herbicides, pesticides, and other chemical compounds. While we support and applaud agricultural producers' efforts to target applications and reduce run-off into adjacent waterways, it is still necessary to acknowledge the threat of the compounds to these mussels, as the specific lethal and non-lethal effects are not known for all mussel species, and

spills, unregulated discharges, and errant applications are possible and would have significant negative effects on populations.

(29) *Comment:* A commenter claimed that the proposed listings are unnecessary as Texas already protects the central Texas mussels.

Our response: In 2007 and 2008, we received petitions requesting that we list as endangered or threatened species and designate critical habitat for the Texas fatmucket, Texas fawnsfoot, Texas pimpleback, and false spike. (See Previous Federal Actions in the August 26, 2021, proposed rule (86 FR 47918–47919) for more information.) In 2009, the State of Texas listed the Texas fatmucket, Texas fawnsfoot, Texas pimpleback, and the false spike as threatened, launching an era of freshwater mussel conservation Statewide and bringing attention to this faunal group. However, once the Service is petitioned to list a species, we are required to complete our regulatory process which takes into account conservation efforts and State regulatory efforts in our listing determination. Under the requirements of the Act, we must conduct the required analysis and list the species if it is found to be warranted, and we cannot defer to any State listing. This rule codifies our listing determinations for the central Texas mussels.

I. Final Listing Determination

Background

A thorough review of the taxonomy, life history, and ecology of the Guadalupe fatmucket, Texas fatmucket, Texas fawnsfoot, Guadalupe orb, Texas

pimpleback, Balcones spike, and false spike, referred to as the central Texas mussels, is presented in the SSA report (Service 2022, pp. 4–44).

Guadalupe Fatmucket

The Guadalupe fatmucket (*Lampsilis bergmanni*) was recently discovered to be a separate and distinct species from Texas fatmucket (Inoue et al. 2018, pp. 5–6; Inoue et al. 2020, entire), and the Service now recognizes the Guadalupe fatmucket as a new species that occurs only in the Guadalupe River Basin. Because the Guadalupe fatmucket is so similar to the Texas fatmucket and better information is not yet available, we conclude the Guadalupe fatmucket has similar habitat needs (headwater habitats in gravel or bedrock fissures) and host fish (sunfishes) as the Texas fatmucket, below.

The Guadalupe fatmucket is a small to medium-sized freshwater mussel (to 4 inches (in) (100 millimeters (mm))) that exhibits sexual dimorphism and has a yellow-green-tan shell; it is similar in appearance to the Texas fatmucket (a more detailed description of the Texas fatmucket is found in Howells et al. 2011, pp. 14–16). Related species in the genus *Lampsilis* from the southeast United States reach a maximum age of 13 to 25 years (Haag and Rypel 2010, pp. 4–6), and we expect Guadalupe fatmucket to have a similar lifespan.

Guadalupe fatmucket is currently found in one population, which occurs in 52 miles (84 km) of the Guadalupe River Basin in Kendall and Kerr Counties, Texas (Randklev et al. 2017c, p. 4) (see table 1, below; see also figure 5.11 in Service 2022, p. 118).

TABLE 1—CURRENT GUADALUPE FATMUCKET POPULATION

Population	Streams included	Counties	Occupied reach length (mi (km))	Recent collection years (numbers)
Guadalupe River	Guadalupe River; North Fork, Guadalupe River; Johnson Creek.	Kendall and Kerr Co., TX	52 (84)	2018 (22) 2019 (shells)

Texas Fatmucket

Texas fatmucket has been characterized as a rare Texas endemic (Burlakova et al. 2011a, p. 158) and was originally described as the species *Unio bracteatus* by A.A. Gould in 1855 (p. 228) from the “Llanos River” in “Upper” Texas. The species is currently recognized as *Lampsilis bracteata* (Williams et al. 2017, pp. 35, 39). Recently, individuals that had been known as Texas fatmucket in the Guadalupe River Basin were found to be a new species (Inoue et al. 2020, pp. 93–

111); therefore, we now know the Texas fatmucket to only occur in the Colorado River Basin.

The Texas fatmucket is a small to medium-sized freshwater mussel (to 4 in (100 mm)) that exhibits sexual dimorphism (males and females have different shapes) and has a yellow-green-tan shell (Howells et al. 2011, pp. 14–16). For a detailed morphological description see Howells et al. 1996 (p. 61) and Howells 2014 (p. 41).

Host fishes for Texas fatmucket are members of the Family Centrarchidae

(sunfishes) including bluegill (*Lepomis macrochirus*), green sunfish (*L. cyanellus*), Guadalupe bass (*Micropterus treculii*), and largemouth bass (*M. salmoides*) (Howells 1997, p. 257; Johnson et al. 2012b, p. 148; Howells 2014, p. 41; Ford and Oliver 2015, p. 4; Bonner et al. 2018, p. 9).

Related species can expel conglomerates (packets of glochidia) and are known to use mantle lures (Barnhart et al. 2008, pp. 377, 380) to attract sight-feeding fishes that attack and rupture the marsupium where the glochidia are

held, thereby becoming infested by glochidia. These species are long-term brooders (bradytic), spawning and becoming gravid in the fall and releasing glochidia in the spring (Barnhart et al. 2008, p. 384).

We expect Texas fatmucket has a similar lifespan to related species in the genus *Lampsilis* from the southeast United States, which reach a maximum age of 13 to 25 years (Haag and Rypel 2010, pp. 4–6). Texas fatmucket occur in

firm mud, stable sand, and gravel bottoms, in shallow waters, sometimes in bedrock fissures or among roots of bald cypress (*Taxodium distichum*) and other aquatic vegetation (Howells 2014, p. 41). The species typically occurs in free-flowing rivers but can survive in backwater areas, such as in areas upstream of lowhead dams (e.g., Llano Park Lake (BioWest, Inc. 2018, pp. 2–3)).

Texas fatmucket currently occur only in the upper reaches of major tributaries

within the Colorado River Basin (Randklev et al. 2017c, p. 4) in five populations: lower Elm Creek, upper/middle San Saba River, Llano River, Pedernales River, and Onion Creek (see table 2, below; see also figure 5.5 in Service 2022, p. 91). Isolated individuals not considered part of larger functioning populations have been found in Cherokee Creek, Bluff Creek, and the North Llano River.

TABLE 2—CURRENT TEXAS FATMCKET POPULATIONS

Population	Streams included	Counties	Occupied reach length (mi (km))	Recent collection years (number collected)
Lower Elm Creek	Elm Creek	Runnels Co., TX	12 (19)	2005 (no live animals) 2008 (1) 2019 (1)
Upper/Middle San Saba River.	San Saba River	Mason, McCulloch, Menard, and San Saba Co., TX.	62 (100)	2005 (2) 2012 (8) 2013 (5) 2016 (29) 2017 (87) 2017 (71)
Llano River	Llano River, South Llano River.	Kimble, Llano, and Mason Co., TX	127 (204)	2016 (72) 2017 (47) 2017 (5) 2018 (635) 2019 (6) 2019 (18) 2021 (99)
Pedernales River	Pedernales River, Live Oak Creek.	Blanco, Gillespie, and Hays Co., TX	79 (127)	2011 (1) 2012 (1) 2017 (18)
Onion Creek	Onion Creek	Travis Co., TX	24 (38)	2010 (3) 2018 (1) 2021 (5)

Texas Fawnsfoot

The Texas fawnsfoot was originally described as *Unio macrodon* 1859 from a location near Rutersville, Fayette County, Texas (Lea 1859, pp. 154–155). Texas fawnsfoot is recognized by the scientific community as *Truncilla macrodon* (Williams et al. 2017, pp. 35, 44).

Texas fawnsfoot is a small- to medium-sized (2.4 in (60 mm)) mussel with an elongate oval shell (Howells 2014, p. 111). For a detailed description, see Howells et al. 1996 (p. 143) and Howells 2014 (p. 111).

Host fish species are not confirmed for the Texas fawnsfoot, but we expect they use freshwater drum (*Aplodinotus grunniens*; Howells 2014, p. 111), like other *Truncilla* species occurring in Texas and elsewhere (Ford and Oliver 2015, p. 8). Freshwater drum are molluscivorous (mollusk-eating) and become infested with glochidia when they consume gravid female mussels (Barnhart et al. 2008, p. 373). This strategy of host infestation may limit

population size, as reproductively successful females are sacrificed (i.e., eaten by freshwater drum). Related species are bradytic, brooding larvae over the winter instead of releasing them immediately (Barnhart et al. 2008, p. 384). Other species in the genus *Truncilla* from the Southeast and Midwest reach a maximum age ranging from 8 to 18 years (Haag and Rypel 2010, pp. 4–6), and we expect the lifespan of Texas fawnsfoot to be similar.

Texas fawnsfoot are found in medium- to large-sized streams and rivers with flowing waters and mud, sand, and gravel substrates (Howells 2014, p. 111). Adults are most often found in bank habitats and occasionally in backwater, riffle, and point bar habitats, with low to moderate velocities that appear to function as flow refuges during high flow events (Randklev et al. 2017c, p. 137).

Texas fawnsfoot occur in the lower reaches of the Colorado and Brazos Rivers, and in the Trinity River

(Randklev et al. 2017b, p. 4) in seven populations: East Fork Trinity River, Middle Trinity River, Clear Fork Brazos River, Upper Brazos River, Middle/Lower Brazos River, San Saba/Colorado Rivers, and Lower Colorado River (see table 3, below; see also figure 5.7 in Service 2022, p. 101). Texas fawnsfoot was historically distributed throughout the Colorado and Brazos River basins (Howells 2014, pp. 111–112; reviewed in Randklev et al. 2017c, pp. 136–137) and in the Trinity River Basin (Randklev et al. 2017b, p. 11). Texas fawnsfoot historically occurred in the Leon River, but they are currently extirpated (Popejoy et al. 2016, p. 477). Randklev et al. (2017c, p. 135) surveyed the Llano, San Saba, and Pedernales Rivers and found neither live individuals nor dead shells of Texas fawnsfoot. Isolated individuals not considered part of functioning populations have been found in the Little River.

TABLE 3—CURRENT TEXAS FAWNSFOOT POPULATIONS

Population	Streams included	Counties	Occupied reach length (mi (km))	Recent collection years (numbers)
East Fork Trinity River	East Fork Trinity River	Kaufman Co., TX	12 (19)	2017 (40) 2018 (12)
Middle Trinity River	Trinity River	Anderson, Houston, Leon, Madison, and Navarro Co., TX.	140 (225)	2016–2017 (59)
Clear Fork Brazos River	Clear Fork Brazos River	Shackelford and Throckmorton Co., TX	13 (21)	2010 (1) 2018 (0)
Upper Brazos River	Brazos River	Palo Pinto and Parker Co., TX	62 (100)	2017 (23)
Middle/Lower Brazos River ..	Brazos River	Austin, Brazos, Burleson, Falls, Fort Bend, Grimes, McLennan, Milam, Robertson, Waller, and Washington Co., TX.	346 (557)	2014 (188) 2017 (28) 2021 (1)
San Saba/Colorado Rivers ..	San Saba River, Colorado River.	Mills and San Saba Co., TX	43 (69)	2017 (0) 2018 (2)
Lower Colorado River	Colorado River	Colorado, Matagorda, and Wharton Co., TX.	109 (175)	2010 (52) 2015 (10) 2017 (9)

Guadalupe Orb

Burlakova et al. (2018, entire) recently described the Guadalupe orb (*Cyclonaias necki*) from the Guadalupe River Basin as a separate species distinct from Texas pimpleback. The Guadalupe orb occurs only in the Guadalupe Basin and is a small-sized mussel with a shell length that reaches up to 2.5 in (63 mm) (Burlakova et al. 2018, p. 48). Guadalupe orb shells are thinner and more compressed but otherwise morphologically similar to the closely related Texas pimpleback. The posterior ridge is more distinct and prominent, and the umbo is more

compressed than in Texas pimpleback (Burlakova et al. 2018, p. 48). Individuals collected from the upper Guadalupe River (near Comfort, Texas) averaged 1.9 in (48 mm) (Bonner et al. 2018, p. 221). Channel catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis olivaris*), and tadpole madtom (*Noturus gyrinus*) are host fish for the Guadalupe orb (Dudding et al. 2019, p. 15). Dudding et al. (2019, p. 16) cautioned that the apparent clumped distribution of Guadalupe orb (and closely related species) in “strongholds” could be related to observed ongoing declines in native catfishes, including the small and rare tadpole madtom, a riffle specialist.

The best available information leads us to believe that the reproduction, ecological interactions, and habitat requirements of Guadalupe orb are similar to those of the closely related Texas pimpleback.

The Guadalupe orb is only known to occur in the Guadalupe River Basin in two separate and isolated populations: the upper Guadalupe River and the lower Guadalupe River (see table 4, below; see also figure 5.13 in Service 2022, p. 125). An isolated individual not considered part of a functioning population has been found in the Blanco River, a tributary to the San Marcos River (Johnson et al. 2018, p. 7).

TABLE 4—CURRENT GUADALUPE ORB POPULATIONS

Population	Streams included	Counties	Occupied reach length (mi (km))	Recent collection years (numbers)
Upper Guadalupe River	Guadalupe River	Comal, Kendall, and Kerr Co., TX	95 (153)	2013 (1) 2017 (10) 2018 (2)
Lower Guadalupe River	Guadalupe River, San Marcos River.	Caldwell, DeWitt, Gonzales, Guadalupe, and Victoria Co., TX.	181 (291)	2014–2015 (893) 2017 (41)

Texas Pimpleback

The Texas pimpleback was originally described as *Unio petrinus* from the “Llanos River” in “Upper” Texas (Gould 1855, p. 228). The species is now recognized as *Cyclonaias petrina* by the scientific community (Williams et al. 2017, pp. 35, 37). Burlakova et al. (2018, entire) recently described the Guadalupe orb (*C. necki*) from the Guadalupe River Basin as a separate species distinct from Texas pimpleback. Texas pimpleback are now considered to occur only in the Colorado River Basin of Texas. The Texas pimpleback is a small- to medium-sized (up to 4 in

(103 mm)) mussel with a moderately inflated, yellow, brown, or black shell, occasionally with vague green rays or concentric blotches (Howells 2014, p. 93).

Recent laboratory studies of the closely related Guadalupe orb suggest that channel catfish, flathead catfish, and tadpole madtom are host fish for the Texas pimpleback (Dudding et al. 2019, p. 2). Related species have miniature glochidia and also use catfish as hosts (Barnhart et al. 2008, pp. 373, 379). Additionally, related species can also produce conglutinates (Barnhart et al. 2008, p. 376) and tend to exhibit short-term brooding (tachytictia; releasing

glochidia soon after the larvae mature) (Barnhart et al. 2008, p. 384). Texas pimpleback are reproductively active between April and August (Randklev et al. 2017c, p. 110). Related species live as long as 15 to 72 years (Haag and Rypel 2010, p. 10).

Texas pimpleback are known to occur in the Colorado River Basin in five isolated populations: Concho River, Upper San Saba River, Lower San Saba River/Colorado River, Llano River, and the Lower Colorado River (see table 5, below; see also figure 5.9 in Service 2022, p. 110). Only the Lower San Saba and Llano River populations are known to be successfully reproducing. Texas

pimpleback was historically distributed (Howells 2014, pp. 93–94; reviewed in
throughout the Colorado River Basin Randklev et al. 2017c, pp. 109–110).

TABLE 5—CURRENT TEXAS PIMPLEBACK POPULATIONS

Population	Streams included	Counties	Occupied reach length (mi (km))	Recent collection years (numbers)
Concho River	Concho River	Concho Co., TX	14 (23)	2008 (47) 2012 (1)
Upper San Saba River	San Saba River	Menard Co., TX	30 (48)	2017 (1)
Lower San Saba/Colorado Rivers.	San Saba River, Colorado River.	Brown, Coleman, McCulloch, Mills, and San Saba Co., TX.	178 (286)	2012 (247) 2014 (481) 2017 (20) 2017 (97) 2018 (42) 2019 (23)
Llano River	Llano River	Mason Co., TX	5 (8)	2012 (10) 2016 (1) 2017 (23) 2018 (1)
Lower Colorado River	Colorado River	Colorado and Wharton Co., TX	98 (158)	2021 (46) 2014 (49) 2017 (8) 2018 (30)

Balcones Spike

The Balcones spike (*Fusconaia iheringi*) was recently discovered to be a separate and distinct species from false spike (Smith et al. 2020, entire), and the Service now recognizes the Balcones spike as a new species that occurs in the Brazos and Colorado River basins. Because the Balcones spike has recently been split from false spike, species-specific data are not yet available, and so we expect the Balcones spike has similar habitat needs (larger creeks and rivers with sand, gravel, or cobble substrates, slow to moderate flows) and host fish (red shiner

(*Cyprinella lutrensis*) and blacktail shiner (*Cyprinella venusta*)) as the false spike.

The Balcones spike is a small to medium-sized freshwater mussel (to approximately 3.8 inches (in) (96 millimeters (mm))) with a yellow-green to brown elongate shell, sometimes with greenish rays. While similar in appearance to false spike, Balcones spike usually has a sharper posterior ridge and shinier periostracum when compared to false spike. For a more detailed description, see Smith et al. 2020 (entire). Related species in the genus *Fusconaia* from the southeast

United States reach a maximum age of 15 to 51 years (Haag and Rypel 2010, pp. 4–6). The closely related congener species, false spike, is thought to have a maximum age of 15 years (Dudding et al. 2019, p. 167) and to reach sexual maturity around 5 years of age (Dudding et al. 2019, p. 167).

Balcones spike is currently found in three populations in the Little River and some tributaries (Brazos River Basin), the lower San Saba River (Colorado River Basin), and the Llano River (Colorado River Basin) (see table 6, below; see also figure 5.3 in Service 2022, p. 85).

TABLE 6—CURRENT BALCONES SPIKE POPULATIONS

Population	Streams included	Counties	Occupied reach length (mi (km))	Recent collection years (numbers collected)
Little River and tributaries	Little River, Brushy Creek, San Gabriel River.	Milam and Williamson Co., TX	41 (66)	2015 (29) 2021 (13) 2021 (1)
Lower San Saba River	San Saba River	San Saba Co., TX	42 (67)	2012 (3)
Llano River	Llano River	Mason Co., TX	<1 (~1)	2017 (1) 2021 (14)

False Spike

The false spike is native to the Guadalupe Basin in central Texas (Howells 2010, p. 4; Randklev et al. 2017c, p. 12). It was thought to have historically occurred in the Rio Grande based on the presence of fossil and subfossil shells there (Howells 2010, p. 4), but those specimens have now been attributed to *Sphenonaias taumilapana* Conrad 1855 (no common name; Randklev et al. 2017c, p. 12; Graf and

Cummings 2007, p. 309). Recently, individuals that had been known as false spike in the Brazos and Colorado River basins were found to be a new species (Smith et al. 2020, entire); therefore, the false spike occurs only in the Guadalupe River Basin.

The false spike was originally described as *Unio mitchelli* by Charles T. Simpson in 1895 from the Guadalupe River in Victoria County, Texas (Dall 1896, pp. 5–6). The species was

assigned as *Quincuncina mitchelli* by Turgeon et al. (1988, p. 33) and was recognized as such by Howells et al. (1996, p. 127), and it was referenced as *Quadrula mitchelli* by Haag (2012, p. 71). Finally, it was recognized as *Fusconaia mitchelli*, its current nomenclature, by Pfeiffer et al. (2016, p. 289). False spike is considered a valid taxon by the scientific community (Williams et al. 2017, pp. 35, 39).

The false spike is a medium-sized freshwater mussel (to 5.2 in (132 mm)) with a yellow-green to brown or black elongate shell, sometimes with greenish rays. For a detailed description, see Howells et al. 1996 (pp. 127–128) and Howells 2014 (p. 85).

Based on closely related species, false spike likely brood eggs and larvae from early spring to late summer and host fish are expected to be minnows (family Cyprinidae) (Pfeiffer et al. 2016, p. 287). Confirmed host fish for false spike include blacktail shiner and red shiner (Dudding et al. 2019, p. 16).

Related species in the genus *Fusconaia* from the southeast United States reach a maximum age of 15 to 51 years (Haag and Rypel 2010, pp. 4–6). False spike is thought to have a maximum age of 15 years (Dudding et al. 2019, p. 167) and to reach sexual

maturity around 5 years of age (Dudding et al. 2019, p. 167).

False spike occur in larger creeks and rivers with sand, gravel, or cobble substrates, and in areas with slow to moderate flows. The species is not known from impoundments, nor from deep waters (Howells 2014, p. 85).

False spike was once considered common wherever it was found; however, beginning in the early 1970s, the species began to be regarded as rare throughout its range, based on collection information (Strecker 1931, pp. 18–19; Randklev et al. 2017c, p. 13). It was considered to be extinct until 2011, when the discovery of seven live false spike in the Guadalupe River, near Gonzales, Texas, was the first report of living individuals in nearly four decades (Howells 2010, p. 4; Randklev et al. 2011, p. 17). The patchy

distribution of false spike could be related to host fish relationships (Dudding et al. (2019, pp. 16–17); that is, because their host fish have a small home range, have limited dispersal ability, and are sensitive to human impacts, distribution of false spike could be limited by access to, and movement of, host fish.

Currently, there is only one known population of false spike in the lower Guadalupe River (Guadalupe River Basin) (see table 7, below; see also figure 5.2 in Service 2022, p. 81). For more information on this population, see the SSA report (Service 2022, pp. 75–82). False spike is estimated to have been extirpated from the remainder of its historical range throughout the Guadalupe Basin of central Texas (reviewed in Randklev et al. 2017c, pp. 12–13).

TABLE 7—CURRENT FALSE SPIKE POPULATION

Population	Streams included	Counties	Occupied reach length (mi (km))	Recent collection years (number collected)
Lower Guadalupe River	Guadalupe River	DeWitt, Gonzales, and Victoria Co., TX	102 (164)	2014–2015 (652)

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and species. On April 5, 2024, jointly with the National Marine Fisheries Service, the Service issued a final rule that revised the regulations in 50 CFR 424 regarding how we add, remove, and reclassify endangered and threatened species to the lists and the criteria for designating listed species' critical habitat (89 FR 24300). On the same day, the Service published a final rule revising our protections for endangered species and threatened species at 50 CFR 17 (89 FR 23919). These final rules are now in effect and are incorporated into the current regulations. Our analysis for this decision applied our current regulations. Given that we proposed listing and critical habitat for these species under our prior regulations (revised in 2019), we have also undertaken an analysis of whether our decision would be different if we had continued to apply the 2019 regulations and we concluded that the decision would be the same. The

analyses under both the regulations currently in effect and the 2019 regulations are available on <https://www.regulations.gov>.

The Act defines an “endangered species” as a species that is in danger of extinction throughout all or a significant portion of its range, and a “threatened species” as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any

negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an “endangered species” or a “threatened species.” In determining whether a species meets either definition, we must evaluate all identified threats by considering the species' expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any

existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an “endangered species” or a “threatened species” only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term “foreseeable future,” which appears in the statutory definition of “threatened species.” Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; “M–Opinion,” available online at <https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf>). The foreseeable future extends as far into the future as the U.S. Fish and Wildlife Service and National Marine Fisheries Service (hereafter, the Services) can make reasonably reliable predictions about the threats to the species and the species’ responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species’ life-history characteristics, threat-projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. “Reliable” does not mean “certain”; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be listed as endangered or threatened species under the Act. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies.

To assess the viability of the seven central Texas mussels, we used the three conservation biology principles of resiliency, redundancy, and

representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency is the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy is the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation is the ability of the species to adapt to both near-term and long-term changes in its physical and biological environment (for example, climate conditions, pathogens). In general, species viability will increase with increases in resiliency, redundancy, and representation (Smith et al. 2018, p. 306). Using these principles, we identified the species’ ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species’ viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated each individual species’ life-history needs. The next stage involved an assessment of the historical and current condition of the species’ demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species’ responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time. We use this information to inform our regulatory decision.

The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket FWS–R2–ES–2019–0061 on <https://www.regulations.gov> and at <https://www.fws.gov/office/austin-ecological-services>.

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species’ current and future condition, in order to assess the species’ overall viability and the risks to that viability.

Using various timeframes and the current and projected future resiliency, redundancy, and representation, we describe the species’ levels of viability over time. For the central Texas mussels to maintain viability, their populations or some portion thereof must be sufficiently resilient. A number of

factors influence the resiliency of central Texas mussel populations, including occupied stream length, abundance, and recruitment. While some of the seven species have life-history adaptations that help them tolerate dewatering and other stressors to some extent, each of these stressors diminishes the resiliency of populations to some degree and especially in combination. Elements of the species’ habitat that determine whether central Texas mussel populations can grow to maximize habitat occupancy influence those factors, thereby increasing the resiliency of populations. These resiliency factors and habitat elements are discussed in detail in the SSA report and are summarized here.

Species Needs

Occupied Stream Length

Most freshwater mussels, including the central Texas mussel species, are found in aggregations, called mussel beds, that vary in size from about 50 to more than 5,000 square meters (m²), separated by stream reaches in which mussels are absent or rare (Vaughn 2012, p. 2). We define a mussel population at a larger scale than a single mussel bed; it is the collection of mussel beds within a stream reach between which infested host fish may travel, allowing for ebbs and flows in mussel bed density and abundance over time throughout the entirety of the population’s occupied reach. Therefore, sufficiently resilient mussel populations must occupy stream reaches long enough such that stochastic events that affect individual mussel beds do not eliminate the entire population, and repopulation by infested fish from other mussel beds within the reach can allow the population to recover from these events. We consider populations extending more than 50 miles (80 kilometers (km)) to be highly resilient to stochastic events because a single event is unlikely to affect the entire population. Populations occupying reaches between 20 and 49 river mi (32 and 79 river km) have some resiliency to stochastic events, and populations occupying reaches less than 20 miles (32 km) have little resiliency.

Abundance

Mussel abundance in a given stream reach is a product of the number of mussel beds and the density of mussels within those beds. For populations of the central Texas mussel species to be healthy (*i.e.*, sufficiently resilient), there must be many mussel beds of sufficient density such that local stochastic events do not necessarily eliminate the bed(s),

allowing the mussel bed and the overall local population within a stream reach to recover from any single event. Mussel abundance is indicated by the number of individuals found during a sampling event; mussel surveys rarely represent a complete census of the population. Instead, density is estimated by the number found during a survey event using various statistical techniques. Because we do not have population estimates for most populations of the central Texas mussels, nor are the techniques directly comparable (*i.e.*, same area size searched, similar search time, etc.), we used the number of individuals captured as an index over time, presuming relatively similar levels of effort. While we cannot precisely determine population abundance at the sites using these numbers, we are able to determine if the species is dominant at the site or rare and examine this over time if those data are available.

Reproduction

Adequately resilient central Texas mussel populations must also be reproducing and recruiting young individuals into the population. Population size and abundance reflects previous influences on the population and habitat, while reproduction and recruitment reflect population trends that may be stable, increasing, or decreasing over time. For example, a large, dense mussel population that contains mostly old individuals is not likely to remain large and dense into the future, as there are few young individuals to sustain the population over time (*i.e.*, death rates exceed birth rates and subsequent recruitment of reproductive adults resulting in negative population growth). Conversely, a population that is less dense but has many young and/or gravid individuals may likely grow to a higher density in the future (*i.e.*, birth rates and subsequent recruitment of reproductive adults exceeds death rates, resulting in positive population growth). Detection rates of very young juvenile mussels during routine abundance and distribution surveys are extremely low due to sampling bias, as sampling for these species involves tactile searches and mussels smaller than 35 mm are very difficult to detect (Strayer and Smith 2003, pp. 47–48).

Evidence of reproduction is demonstrated by repeated captures of small-sized individuals (juveniles and subadults near the low end of the detectable range size (about 35 mm); Randklev et al. 2013, p. 9) over time and by observing gravid (with eggs in the marsupium, gills, or gill pouches) females during the reproductively active

time of year. While small-sized mussels and gravid females can be difficult to detect, it is important that surveyors attempt to detect them, as reproduction and subsequent recruitment are important demographic parameters that affect growth rates in mussel populations (Berg et al. 2008, pp. 396, 398–399; Matter et al. 2013, pp. 122–123, 134–135).

Risk Factors for the Central Texas Mussels

We reviewed the potential risk factors (*i.e.*, threats, stressors) that could be affecting the seven central Texas mussels now and in the future. In this rule, we will discuss only those factors in detail that could meaningfully impact the status of the species. Those risks that are not known to have effects on central Texas mussel populations, such as disease, are not discussed here but are evaluated in the SSA report. Many of the threats and risk factors are the same or similar for each of the seven species. Where the effects are expected to be similar, we present one discussion that applies to all seven species. Where the effects may be unique or different to one species, we will address that specifically. The primary risk factors (*i.e.*, threats) affecting the status of the central Texas mussels are: (1) Increased fine sediment (Factor A from the Act), (2) changes in water quality (Factor A), (3) altered hydrology in the form of inundation (Factor A), (4) altered hydrology in the form of loss of flow and scour of substrate (Factor A), (5) predation and collection (Factor B), and (6) barriers to fish movement (Factor E). These factors are all exacerbated by the ongoing and expected effects of climate change. Finally, we also reviewed the conservation efforts being undertaken for the species.

Increased Fine Sediment

Juvenile and adult central Texas mussels inhabit microsites that have abundant interstitial spaces, or small openings in an otherwise closed matrix of substrate, created by gravel, cobble, boulders, bedrock crevices, tree roots, and other vegetation. Inhabited interstitial spaces have some amount of fine sediment (*i.e.*, clay and silt) necessary to provide appropriate shelter. However, excessive amounts of fine sediments can reduce the number of appropriate microsites in an otherwise suitable mussel bed by filling in these interstitial spaces and can smother mussels in place. All seven species of the central Texas mussels generally require stable substrates, and loose silt deposits do not generally provide for substrate stability that can

support mussels. Interstitial spaces provide essential habitat for juvenile mussels. Juvenile freshwater mussels burrow into interstitial substrates, making them particularly susceptible to degradation of this habitat feature. When clogged with sand or silt, interstitial flow may become reduced (Brim Box and Mossa 1999, p. 100), thus reducing juvenile habitat availability and quality. While adult mussels can be physically buried by excessive sediment, the main impacts of excess sedimentation on unionids (freshwater mussels) are often sublethal and include interference with feeding mediated by valve closure (Brim Box and Mossa 1999, p. 101). Many land use activities can result in excessive erosion, sediment production, and channel instability, including, but not limited to, logging, crop farming, ranching, mining, and urbanization (Brim Box and Mossa 1999, p. 102).

Under a natural flow regime, a stream's sediment load is in equilibrium such that as sediments are naturally moved downstream from one microsite to another, the amount of sediment in the substrate is relatively stable, given that different reaches within a river or stream may be aggrading (gaining) or degrading (losing) sediment (Poff et al. 1997, pp. 770–772). In this context, sedimentation explicitly is restricted to increased fine sediments entering a stream system at a rate beyond the naturally occurring losing rate and does not replace the use of the broader term of turbidity. In addition to increased levels of fine sediment, turbidity is also influenced by concentrations of fine organic and inorganic matter, soluble organic compounds, algae, and other microscopic organisms. Changes in stream turbidity are not inherently an indicator of increased sedimentation as turbidity can naturally vary from stream to stream in Texas due to unrelated factors (*e.g.*, stream primary productivity). Current and past human activities result in enhanced sedimentation in river systems, and legacy sediment, resulting from past land disturbance and reservoir construction, continues to persist and influence river processes and sediment dynamics (Wohl 2015, p. 31). These legacy effects can degrade mussel habitats. Fine sediments collect on the streambed and in crevices during low flow events, and much of the sediment is washed downstream during high flow events (also known as cleansing flows) and deposited elsewhere. However, increased frequency of low flow events (from groundwater extraction, instream surface flow diversions, and drought)

combined with a decrease in cleansing flows (from reservoir management and drought) causes sediment to accumulate. Sediments deposited by large-scale flooding or other disturbance may persist for several years until adequate cleansing flows can redistribute that sediment downstream. When water velocity decreases, which can occur from reduced streamflow or inundation, water loses its ability to carry sediment in suspension, and sediment falls to the substrate, eventually smothering mussels not adapted to soft substrates (Watters 2000, p. 263). Sediment accumulation can be exacerbated when there is a simultaneous increase in the sources of fine sediments in a watershed.

In the range of the central Texas mussels, these sources include streambank erosion from development, agricultural activities, livestock and wildlife grazing and browsing, in-channel disturbances, roads, and crossings, among others (Poff et al. 1997, p. 773). In areas with ongoing development, runoff can transport substantial amounts of sediment from ground disturbance related to construction activities with inadequate or absent sedimentation controls. While these construction impacts can be transient (lasting only during the construction phase), the long-term effects of development are long lasting and can result in hydrological alterations as increased impervious cover increases runoff and resulting shear stress causes streambank instability and additional sedimentation.

All populations of the central Texas mussels face the risk of fine sediment accumulation to varying degrees. Multiple populations of the seven central Texas mussel species are experiencing increased sedimentation, including, in particular, the Clear Fork Brazos River (Texas fawnsfoot), middle and lower Brazos River (Balcones spike and Texas fawnsfoot), and lower Colorado River (Texas pimpleback and Texas fawnsfoot). In the future, we expect sediment deposition to continue to increase across the range of all seven species due to low water levels and decreasing frequency of cleansing flows at all populations and for longer periods due to climate change and additional human development in the watershed.

Changes in Water Quality

Freshwater mussels and their host fish require water in sufficient quantity and quality on a consistent basis to complete their life cycles. Urban growth and other anthropogenic activities across Texas are placing increased

demands on limited freshwater resources that, in turn, can have deleterious effects on water quality. Water quality can be degraded through contamination or alteration of water chemistry. Chemical contaminants are ubiquitous throughout the environment and are a major reason for the current declining status of freshwater mussel species nationwide (Augsburger et al. 2007, p. 2525). Immature mussels (*i.e.*, juveniles and glochidia) are especially sensitive to water quality degradation and contaminants (Cope et al. 2008, p. 456; Wang et al. 2017, pp. 791–792; Wang et al. 2018, p. 3041).

Chemicals enter the environment through both point and nonpoint source discharges, including hazardous spills, industrial wastewater, municipal effluents, and agricultural runoff. These sources contribute organic compounds, trace metals, pesticides, and a wide variety of newly emerging contaminants (*e.g.*, pharmaceuticals) that comprise some 85,000 chemicals in commerce today that are released into the aquatic environment (EPA 2018, p. 1). The extent to which environmental contaminants adversely affect aquatic biota can vary depending on many variables such as concentration, volume, and timing of the release. Species diversity and abundance consistently rank lower in waters that are polluted or otherwise degraded by contaminants. Freshwater mussels are not generally found for many miles downstream of municipal WWTPs (Gillis et al. 2017, p. 460; Goudreau et al. 1993, p. 211; Horne and McIntosh 1979, p. 119). For example, transplanted common freshwater mussels (including threeridge (*Amblema plicata*) and the nonnative Asian clam (*Corbicula fluminea*) showed reduced growth and survival below a WWTP outfall relative to sites located upstream of the WWTP in Wilbarger Creek (a tributary to the Colorado River in Travis County, Texas); water chemistry was altered by the wastewater flows at downstream sites, with elevated constituents in the water column that included copper, potassium, magnesium, and zinc (Duncan and Nobles 2012, p. 8; Nobles and Zhang 2015, p. 11). Contaminants released during hazardous spills are also of concern. Although spills are relatively short-term localized events, depending on the types of substances and volume released, water resources nearby can be severely impacted and degraded for years following an incident.

Ammonia is of particular concern below WWTPs because freshwater mussels are particularly sensitive to increased ammonia levels (Augsburger

et al. 2003, p. 2569). Elevated concentrations (greater than 0.2 parts per billion) of un-ionized ammonia (NH_3) in the interstitial spaces of benthic habitats have been implicated in the reproductive failure of other freshwater mussel populations (Strayer and Malcom 2012, pp. 1787–1788), and sublethal effects (valve closures) have recently been described as total ammonia nitrogen approaches 2.0 milligrams per liter (mg/L = parts per million (ppm); Bonner et al. 2018, p. 186). Immature mussels (*i.e.*, juveniles and glochidia) are especially sensitive to water quality degradation and contaminants, including ammonia (Wang et al. 2007, p. 2055). For pimpleback (*Cyclonaias pustulosa*, a species native to central Texas but not included in this listing), the revised Environmental Protection Agency ammonia benchmarks are sufficient to protect from short-term effects of ammonia on the species' physiological processes (Bonner et al. 2018, p. 151). However, the long-term effects of chronic exposure (*i.e.*, years or decades) to freshwater mussels have yet to be experimentally investigated.

Municipal wastewater contains both ionized and un-ionized ammonia, and wastewater discharge permits issued by the Texas Commission on Environmental Quality (TCEQ) do not always impose limits on ammonia, particularly for smaller volume dischargers. Therefore, at a minimum, concentrations of ammonia are likely to be elevated in the immediate mixing zone of some WWTP outfalls. Approximately 480 discharge permits have been issued for the Brazos River watershed alone from its headwaters above Possum Kingdom Lake down to the Gulf of Mexico (TCEQ 2018, entire), and WWTP outfalls are numerous in other basins throughout the ranges of the central Texas mussels. In addition, some industrial permits, such as animal processing facilities, have ammonia limits in the range of 3 to 4 mg/L or higher, which exceeds levels that inhibited growth in juvenile fatmucket (*Lampsilis siliquoidea*) and rainbow mussel (*Villosa iris*) (Wang et al. 2007, entire).

An additional type of water quality degradation that affects the central Texas mussels is alteration of water quality parameters such as dissolved oxygen, temperature, and salinity levels. Dissolved oxygen levels may be reduced from increased nutrient inputs or other sources of organic matter that increase the biochemical oxygen demand in the water column as microorganisms decompose waste. Organic waste can originate from storm water or irrigation

runoff or wastewater effluent, and juvenile mussels seem to be particularly sensitive to low dissolved oxygen (with sublethal effects evident at 2 ppm and lethal effects evident at 1.3 ppm; Sparks and Strayer 1998, pp. 132–133). Increased water temperature (over 30 °C (86 °F) and approaching 40 °C (104 °F)) from climate change and from low flows during drought can exacerbate low dissolved oxygen levels in addition to other drought-related effects on both juvenile and adult mussels (Sparks and Strayer 1998, pp. 132–133). Finally, high salinity concentrations are an additional concern in certain watersheds, where dissolved salts can be particularly limiting to the central Texas mussels. Upper portions of the Brazos and Colorado Rivers, originating from the Texas High Plains, contain saline water, sourced from both natural geological formations and from oil and gas development. Salinity in river water is diluted by surface flow, and as surface flow decreases, salt concentrations increase, resulting in adverse effects to freshwater mussels. Even low levels of salinity (2 to 4 parts per thousand (ppt)) have been demonstrated to have substantial negative effects on reproductive success, metabolic rates, and survival of freshwater mussels (Blakeslee et al. 2013, p. 2853). The behavioral response of valve closure to high salinity concentrations (greater than 2 ppt) is the likely mechanism for reduced metabolic rates, reduced feeding, and reduced reproductive success based on reported sublethal effects of salinity of more than 2 ppt for the Texas pimpleback (Bonner et al. 2018, pp. 155–156).

Water quality and quantity are interdependent, so reductions in surface flow from drought, instream diversion, and groundwater extraction serve to concentrate contaminants by reducing flows that would otherwise dilute point and non-point source pollution. For example, salinity inherently poses a greater risk to aquatic biota under low flow conditions as salinity concentrations and water temperatures increase. Drought conditions can place additional stressors on stream systems beyond reduced flow by exacerbating contaminant-related effects to aquatic biota, including the central Texas mussels. Not only can temperature be a biological, physical, and chemical stressor, the toxicity of many pollutants (e.g., ammonia, mercury) to aquatic organisms increases at higher temperatures. We foresee threats to water quality increasing into the future as demand and competition for limited water resources grows.

Altered Hydrology—Inundation

All seven central Texas mussels are adapted to flowing water (lotic habitats) rather than standing water (lentic habitats) and require free-flowing water to survive. Low flow events (including stream drying) and inundation can eliminate habitat appropriate for the central Texas mussels, and while these species can survive these events for a short duration, populations that experience prolonged drying events or repeated drying events will not persist over time.

Inundation has primarily occurred upstream of dams, both large (such as the Highland Lakes on the Colorado River and other major flood control and water supply reservoirs) and small (low water crossings and diversion dams typical of the tributaries and occurring usually on privately owned lands throughout central Texas). Inundation causes an increase in sediment deposition, eliminating the crevices that many of the central Texas mussel species inhabit. Inundation also includes the effects of reservoir releases where frequent variation in surface water elevation acts to make habitats unsuitable for the central Texas mussels. In large reservoirs, deep water is very cold and often devoid of oxygen and necessary nutrients. Cold water (less than 11 °C (52 °F)) stunts mussel growth and delays or hinders spawning. The central Texas mussels do not tolerate inundation under large reservoirs. Further, deep-water reservoirs with bottom release (like Canyon Reservoir) can affect water temperatures several miles downriver. The water temperature remains below 21.1 °C for the first 3.9 miles (6.3 km) of the 13.8-mile (22.2-km) Canyon Reservoir tailrace (TPWD 2007, p. ii), and are cold enough to support a recreational nonnative rainbow and brown trout fishery.

The construction of dams, inundation of reservoirs, and management of water releases have significant effects on the natural hydrology of a river or stream. For example, dams trap sediment in reservoirs, and managed releases typically do not conform to the natural flow regime (i.e., higher baseflows, and peak flows of reduced intensity but longer duration). Rivers transport not only water but also sediment, which is transported mostly as suspended load (held by the water column), and most sediment transport occurs during floods as sediment transport increases as a power function (greater than linear) of flow (Kondolf 1997, p. 533). It follows that increased severity of flooding would result in greater sediment

transport, with important effects on substrate stability and benthic habitats for freshwater mussels and other organisms dependent on stable benthic habitats. Further, water released by dams is usually clear and does not carry a sediment load and is considered “hungry water because the excess energy is typically expended on erosion of the channel bed and banks . . . resulting in incision (downcutting of the bed) and coarsening of the bed material until a new equilibrium is reached” (Kondolf 1997, p. 535). Conversely, depending on how dam releases are conducted, reduced flood peaks can lead to accumulations of fine sediment in the riverbed (i.e., loss of flushing flows) (Kondolf 1997, pp. 535, 548).

Operation of flood-control, water-supply, and recreation reservoirs results in altered hydrologic regimes, including an attenuation of both high- and low-flow events. Flood-control dams store floodwaters and then release them in a controlled manner; this extended release of flood waters can result in significant scour and loss of substrates that provide mussel habitat. Along with this change in the flow of water, sediment dynamics are affected as sediment is trapped above and scoured below major impoundments. These changes in water and sediment transport have negatively affected freshwater mussels and their habitats.

There are numerous dams throughout the range of the central Texas mussels. There are now 27 major reservoirs, 16 of which have more than 50,000 acre-feet of storage, in the Brazos River Basin (BBEST 2012, p. 33); 31 major reservoirs in the Colorado River Basin, including the Highland Lakes (TWDB 2018, p. 1); 9 major reservoirs on the Guadalupe River (BBEST 2011, p. 2.2); and 31 major reservoirs in the Trinity River Basin (BBEST 2009, p. 10). These reservoirs, subsequent inundation, and resulting fragmentation of mussel populations has been the primary driver of the current distribution of the central Texas mussels. Additional reservoirs are planned for the future, including the Cedar Ridge Reservoir, proposed by the City of Abilene on the Clear Fork of the Brazos River near the town of Lueders, Texas (see 83 FR 16061; April 13, 2018), and more than one reservoir is proposed to be built off the main channel of the Lower Colorado River in Wharton and Colorado Counties, Texas (LCRA 2018, p. 1). The Allens Creek Reservoir is proposed for construction on Allens Creek near the City of Wallis, to provide water supply and storage for the City of Houston (BRA 2018a, p. 1). Water that is planned to be pumped from the Brazos River during high flows will be

stored and released back into the river to meet downstream needs during periods of low flow.

Altered Hydrology—Flow Loss and Scour

Extreme water levels—both low flows and high flows—are threats to population persistence of the central Texas mussels. The effects of population losses associated with excessively low flows are compounded by population losses associated with excessively high flows. Whereas persistent low flow during times of drought results in drying of mussel habitats and desiccation of exposed mussels, rapid increases in flows associated with large-scale rain events and subsequent flooding results in scour of the streambed and physical displacement of mussels and appropriate substrates. Appropriately sized substrates are moved during scouring high flow events, and mussels are transported downstream to inappropriate sites or are buried by inappropriately sized materials. The central Texas mussels are experiencing a repeating cycle of alternating droughts and flooding that, in combination with hydrological alterations, impacts population persistence.

Droughts that have occurred in the recent past have led to extremely low flows in several central Texas rivers. Many of these rivers have some resiliency to drought because they are spring-fed (Colorado River tributaries, Guadalupe River), are very large (lower Brazos and Colorado Rivers), or have significant return flows (Trinity River), but drought in combination with increased groundwater pumping may lead to lower river flows of longer duration than have been recorded in the past. Reservoir releases can be managed to some extent during drought conditions to prevent complete dewatering below many major reservoirs. During the months of July and August 2018, the Clear Fork Brazos, Concho, San Saba, Llano, Pedernales, and upper Colorado and upper Guadalupe Rivers all had very low flows (USGS 2019, unpaginated).

Streamflow in the Colorado River above the Highland Lakes and downstream of the confluence with Concho River has been declining since the 1960s as evidenced by annual daily mean streamflow (USGS 2008, pp. 812, 814, 848, 870, 878, 880), and overall river discharge for the Colorado River can be expected to continue to decline due to increased drought as a result of climate change, absent significant return flows. There are a few exceptions including the Llano River at Llano

(USGS 2008, p. 892), Pedernales River at Fredericksburg (USGS 2008, p. 896), Onion Creek near Driftwood, and Onion Creek at Highway 183 (flows appear to become more erratic, characteristic of a developing watershed) (USGS 2008, pp. 930, 946). In the San Saba River, continuing or increasing surface and alluvial aquifer groundwater withdrawals in combination with drought are likely to result in reduced streamflow, affecting mussels in the future (Randklev et al. 2017c, pp. 10–11).

Flows have declined due to drought in the Brazos River in recent years upstream of Lake Whitney (USGS 2008, pp. 578, 600, 626, 638; BRA 2018b, p. 6), although baseflows are maintained somewhat due to releases from Lake Granbury and other reservoirs in the upper basin (USGS 2008, p. 644; BRA 2018b, p. 6). In the middle Brazos, U.S. Army Corps of Engineers (USACE) dams have reduced the magnitude of floods on the mainstem of the Brazos River downstream of Lake Whitney (USGS 2008, pp. 652, 676, 766, 776; BRA 2018b, p. 6), while flows in the lower Brazos and Navasota Rivers appear to have higher baseflows due to water supply operations in the upper basin that deliver to downstream users (USGS 2008, pp. 754, 766, 776; BRA 2018b, p. 6). Lake Limestone releases also appear to be contributing to higher base flows in the Lower Brazos (BRA 2018b, p. 6). Flows have declined in the upper Guadalupe River (USGS 2008, pp. 992, 994, 1000, 1018) but appear relatively unchanged at Comfort and Spring Branch and in the San Marcos River (USGS 2008, pp. 1004, 1006, 1022), and in the lower Guadalupe River (USGS 2008, pp. 1036, 1040). In the lower sections of the Colorado River, lower flows and reduced high flow events are more common now decades after major reservoirs were constructed (USGS 2008, pp. 964, 966). In the Trinity River, low flows are higher (elevated baseflows) than they were in the past (USGS 2008, pp. 370, 398, 400, 430) because of substantial return flows from Dallas area wastewater treatment plants.

Many of the tributary streams (*i.e.*, Concho, San Saba, Llano, and Pedernales Rivers) historically received significant groundwater inputs from multiple springs associated with the Edwards and other aquifers. As spring flows decline due to drought or groundwater lowering from pumping, habitat for the central Texas mussels in the tributary streams is reduced and could eventually cease to exist (Randklev et al. 2018, pp. 13–14). While the central Texas mussels may survive short periods of low flow, as low flows

persist, mussels face oxygen deprivation, increased water temperature, increased predation risk, and ultimately stranding, all reducing survivorship, reproduction, and recruitment in the population.

Low-flow events lead to increased risk of desiccation (physical stranding and drying) and exposure to elevated water temperature and other water quality degradations, such as contaminants, as well as to predation. For example, sections of the San Saba River, downstream of Menard, Texas, experienced very low flows during the summer of 2015, which led to dewatering of occupied habitats as evidenced by observations of recent dead shell material of Texas pimpleback and Texas fatmucket (TPWD 2015, pp. 2–3; described in detail by Randklev et al. 2018, entire). Several USGS stream gauges reported very low flows during the 2017–2018 water year, including the Clear Fork of the Brazos River, Elm Creek, Concho River at Paint Rock, San Saba River, Colorado River at San Saba, Llano River, Pedernales River, and upper Guadalupe River (USGS 2018, entire). In 2017, Service, TPWD, and Texas Department of Transportation (TxDOT) biologists noted at one site on the Brazos River near Highbank, Texas, the presence of 42 dead to fresh dead (with tissue intact) Texas fawnsfoot that likely died as a result of recent drought or scouring events (Tidwell 2017, entire).

High flow events lead to increased risk of physical removal, transport, and burial (entrapment) of mussels as unstable substrates are transported downstream by floodwaters and later redeposited in locations that may not be suitable. A site in the lower Colorado River near Altair, Texas, suffered significant changes in both mussel community structure and bathymetry (measurement of water depths) during extensive flooding (and resulting high flows) in August 2017, as a result of Hurricane Harvey (Bonner et al. 2018, p. 266). Prior to the flooding events, this site held the highest mussel abundance (Bonner et al. 2018, pp. 242–243) and represented high-quality habitat within the Colorado River Basin. After the flooding events, mussel abundance significantly decreased by nearly two orders of magnitude (Bonner et al. 2018, p. 266). This location had two of the central Texas mussel species (Texas fawnsfoot and Texas pimpleback) present during initial surveys in 2017 (Bonner et al. 2018, p. 242). Widespread flooding was reported in the Colorado and Guadalupe River Basins of central Texas in October 2018.

The distribution of mussel beds and their habitats is affected by large floods returning at least once during the typical life span of an individual mussel (generally from 3 to 30 years). The presence of flow refuges mediates the effects of these floods, as shear stress is relatively low in flow refuges and where sediments are relatively stable, and individual mussels “must either tolerate high-frequency disturbances or be eliminated, and can colonize areas that are infrequently disturbed between events” (Strayer 1999, pp. 468–469). Shear stress and relative substrate stability are limiting to mussel abundance and species richness (Randklev et al. 2017a, p. 7), and riffle habitats may be more resilient to high flow events than littoral (bank) habitats.

The central Texas mussels have historically been, and currently remain, exposed to extreme hydrological conditions, including severe drought leading to dewatering, and heavy rains leading to damaging scour events with movement of mussels and substrate (*i.e.*, “flash flooding”). For example, in 2018, over the span of 69 days, the Llano River near Llano, Texas, experienced extreme low flows (0.08 cubic feet per second (cfs) on August 8, 2018), and extreme high flows leading to severe flooding, which resulted in substantial scour of streambed and riparian area habitats (278,000 cfs on October 16, 2018) (LRWA 2019, entire). Prolonged drought followed by severe flooding can result in failure and collapse of river banks and subsequent sedimentation, as demonstrated by slumping and undercutting on the lower Guadalupe River (near Cuero, Texas), which is occupied by the false spike and Guadalupe orb, in 2015 (Giardino and Rowley 2016, pp. 70–72). The usual drought/flood cycle in central Texas can be characterized by long periods of time without rain interrupted by short periods of heavy rain, resulting in often severe flooding. These same patterns led to the development of flood control and storage reservoirs throughout Texas in the 20th century. It follows that, given the extreme and variable climate of central Texas, mussels must have life-history strategies and other adaptations that allow them to persist by withstanding severe conditions and repopulating during more favorable conditions. However, it is also likely that there is a limit to how the mussels might respond to increasing variability, frequency, and severity of extreme weather events, combined with habitat fragmentation and population isolation.

Sediment deposition may arise from human activities, as well. Sand and gravel can be mined from rivers or from

adjacent alluvial deposits, and instream gravels often require less processing and are thus more attractive from a business perspective (Kondolf 1997, p. 541). Instream mining directly affects river habitats, and can indirectly affect river habitats through channel incision, bed coarsening, and lateral channel instability (Kondolf 1997, p. 541). Excavation of pits in or near to the channel can create a nickpoint, which can contribute to erosion (and mobilization of substrate) associated with head cutting (Kondolf 1997, p. 541). Off-channel mining of floodplain pits can become involved during floods, such that the pits become hydrologically connected and thus can affect sediment dynamics in the stream (Kondolf 1997, p. 545).

Predation and Collection

Predation on freshwater mussels is a natural phenomenon. Raccoons, muskrats, snapping turtles, wading birds, and fish are known to prey upon the central Texas mussels. Under natural conditions, the level of predation occurring within central Texas mussel populations is not likely to pose a significant risk to any given population. However, during periods of low flow, terrestrial predators and wading birds have increased access to portions of the river that are otherwise too deep under normal flow conditions. High levels of predation during drought have been observed on the Llano and San Saba Rivers. As drought and low flow are predicted to occur more often and for longer periods due to the effects of future climate change, the Hill Country tributaries (of the Colorado River) in particular are expected to experience additional predation pressure into the future, and this may become especially problematic in the Llano and San Saba Rivers. Predation is expected to be less of a problem for the lower portions of the mainstem river populations because the rivers are significantly larger than the tributary streams and the central Texas mussels are less likely to be found by predators in exposed or very shallow habitats.

Certain mussel beds within some populations, due to ease of access, are vulnerable to overcollection and vandalism. These areas, primarily on the Llano and San Saba Rivers, have well-known and well-documented mussel beds that have been sampled repeatedly over the past few years by multiple researchers and others for a variety of projects (Robertson 2023, entire).

Repeated collections and handling can cause disturbance to the growth of individual mussels. Freshwater mussels

close their shell in response to handling, which can lead to the production of a disturbance ring in the shell. When closing its shell, it is possible for the mussel's mantle-shell margin connection to be disrupted as the mantle tissue is retracted. This can result in the production of a growth disturbance ring when this mantle-shell connection is re-established in a slightly differing location than the original collection causing a misalignment of the prismatic layer and periostracum (Haag 2012, p. 11). Additionally, the closure of the shell during handling can prevent feeding (Haag 2012, p. 29), alter respiration rate and heart patterns (Haag 2012, pp. 29–30), and require additional energy expenditure to retract and then re-establish the foot in substrate to prevent dislodgment when returned to stream substrates.

Handling of freshwater mussels can also have a detrimental impact on the reproductive efforts of individual mussels and possibly the overall population. It is commonly observed that short-term brooders will abort their glochidia due to disturbances or handling (Haag 2012, p. 199). In species or individuals that are not able to successfully produce multiple broods within a single breeding season, the abortion of these glochidia can cause the loss of reproductive output for that individual for the year. If many animals have their reproductive output curtailed at a single location due to widespread sampling of a site, the abortion of glochidia by multiple animals in response to handling can lead to an overall reduced reproductive output at a site. If this sampling effort is repeated multiple times during a breeding season and across multiple years, there is potential for the disturbance of multiple years of breeding efforts for many animals at a single location. This extended disturbance can lead to multiple years of failed recruitment and potentially the loss of multiple age-class cohorts within a population at the site.

Loss of reproductive effort due to handling could be compounded by the intentional collection of gravid individuals, especially the potential effects on the native populations if an excessive number of females are removed, for use as broodstock for propagation or research purposes (Jones et al. 2006, p. 531). For example, pulling many gravid females from a site may prevent in-situ reproduction from occurring due to essentially removing a large percentage of that year's reproducing portion of the population from the site.

Barriers to Fish Movement

The central Texas mussels historically colonized new areas through movement of infested host fish, as newly metamorphosed juveniles would excyst from host fish in new locations. Today, the remaining central Texas mussel populations are significantly isolated due to habitat fragmentation by major reservoirs such that recolonization of areas previously extirpated is extremely unlikely, if not impossible, due to existing dams creating permanent barriers to host fish movement. There is currently no opportunity for interaction among any of the extant central Texas mussel populations, as they are isolated from one another by major reservoirs.

The overall distribution of mussels is, in part, a function of host fish dispersal (Smith 1985, p. 105). There is limited potential for immigration and emigration between populations other than through the movement of infected host fish between mussel populations. Small populations are more affected by this limited immigration potential because they are susceptible to genetic drift, resulting from random loss of genetic diversity, and inbreeding depression. At the species level, isolated populations that are eliminated due to stochastic events cannot be recolonized naturally due to barriers to host fish movement, leading to reduced overall redundancy and representation.

Many of the central Texas mussels' known or assumed primary host fish species are common, widespread species in central Texas river basins. We know that populations of mussels and their host fish have become fragmented and isolated over time following the construction of major dams and reservoirs throughout central Texas. We do not currently have information demonstrating that the distribution of host fish is a factor currently limiting the central Texas mussels' distribution. However, a recent study suggested that the currently restricted distribution of false spike, Guadalupe orb, and other related species could be related to declining abundance of their host fish, particularly those fish having small home ranges and specialized habitat affinities (Dudding et al. 2019, entire). Further research into the relationships between each of the central Texas mussel species and their host fish is needed to more fully examine the possible role of declining host fish abundance in declining mussel populations.

Effects of Climate Change

Climate change is already taking place, and continued greenhouse gas

emissions at or above current rates will cause further warming (Intergovernmental Panel on Climate Change (IPCC) 2013, pp. 11–12). Warming in Texas is expected to be greatest in the summer (Maloney et al. 2014, p. 2236). The number of extremely hot days (high temperatures exceeding 95 °F) is expected to double by around 2050 (Kinniburgh et al. 2015, p. 83). Western Texas, including portions of the ranges of the central Texas mussels, is an area expected to show greater responsiveness to the effects of climate change (Diffenbaugh et al. 2008, p. 3). Changes in stream temperatures are expected to reflect changes in air temperature, at a rate of approximately 0.6–0.8 °C increase in stream water temperature for every 1 °C increase in air temperature (Morrill et al. 2005, pp. 1–2, 15) and with implications for temperature-dependent water quality parameters such as dissolved oxygen and ammonia toxicity. The central Texas mussels exist at or near a climate and habitat gradient in North America, with the eastern United States having more rainfall and higher freshwater mussel diversity, and the western United States receiving less rainfall and having fewer species of freshwater mussels. As such, it is likely that the central Texas mussels may be particularly vulnerable to future climate changes in combination with current and future stressors (Burlakova et al. 2011a, pp. 156, 161, 163; Burlakova et al. 2011b, pp. 395, 403).

While projected changes to rainfall in Texas are small (U.S. Global Change Research Program (USGCRP) 2017, p. 217), higher temperatures caused by anthropogenic factors lead to increased soil water deficits because of higher rates of evapotranspiration. This is likely to result in increasing drought severity in future climate scenarios just as “extreme precipitation, one of the controlling factors in flood statistics, is observed to have generally increased and is projected to continue to do so across the United States in a warming atmosphere” (USGCRP 2017, p. 231). Even if precipitation and groundwater recharge remain at current levels, increased groundwater pumping and resultant aquifer shortages due to increased temperatures are nearly certain (Loáiciga et al. 2000, p. 193; Mace and Wade 2008, pp. 662, 664–665; Taylor et al. 2013, p. 325). Higher temperatures are also expected to lead to increased evaporative losses from reservoirs, which could negatively affect downstream releases and flows (Friedrich et al. 2018, p. 167). Effects of climate change, such as air temperature

increases and an increase in drought frequency and intensity, have been shown to be occurring throughout the range of the central Texas mussels (USGCRP 2017, p. 188; Andreadis and Lettenmaier 2006, p. 3), and these effects are expected to exacerbate several of the stressors discussed above, such as water temperature and flow loss (Wuebbles et al. 2013, p. 16).

A recent review of future climate projections for Texas concludes that both droughts and floods could become more common in central Texas and projects that years like 2011 (the warmest on record) could be commonplace by the year 2100 (Mullens and McPherson 2017, pp. 3, 6). This trend toward more frequent drought is attributed to increases in hot temperatures, and the number of days at or above 100 °F are projected to “increase in both consecutive events and the total number of days” (Mullens and McPherson 2017, pp. 14–15). Similarly, floods are projected to become more common and severe because of increases in the magnitude of extreme precipitation (Mullens and McPherson 2017, p. 20). Recent ‘historic’ flooding of the Llano River resulted in the transport of high levels of silt and debris to Lake Travis, so much so that the City of Austin’s ability to treat raw water was affected, and the City issued a boil water notice and call for water conservation (City of Austin 2018, p. 3).

In the analysis of the future condition of the central Texas mussels, we considered climate change to be an exacerbating factor, contributing to the increase of fine sediments, changes in water quality, loss of flowing water, and predation. Due to the effects of ongoing climate change (represented by representative concentration pathway (RCP) 4.5), we expect the frequency and duration of cleansing flows to decrease, leading to the increase in fine sediments at all populations. Many populations will experience increased frequency of low flows. More extreme climate change projections (RCP 8.5 and beyond) lead to further increases in fine sediment within the populations. Similarly, as lower water levels concentrate contaminants and cause unsuitable temperature and dissolved oxygen levels, we expect water quality to decline to some degree in the future. The SSA report includes a detailed analysis of the species’ responses to both RCP 4.5 and 8.5 (Service 2022, pp. 142–145, 149, and appendix C).

Species Current Condition

Here we discuss the current condition of each known population, taking into

account the risks to those populations that are currently occurring, as well as management actions that are currently occurring to address those risks. We consider climate change to be currently occurring, resulting in changes to the timing and amount of rainfall affecting streamflow, increased stream temperatures, and increased accumulation of fine sediments. In the SSA report, for each species and population, we developed and assigned condition categories for three population factors (occupied stream length, abundance, and reproduction) and three habitat factors (substrate, flowing water, and water quality) that are important for viability of each species. The condition scores for each factor were then used to determine an overall condition of each population: healthy, moderately healthy, unhealthy, or functionally extirpated. These overall conditions translate to our estimated probability of persistence of each population, with healthy populations having the highest probability of persistence over 20 years (greater than 90 percent), moderately healthy populations having a probability of persistence that falls between 60 and 90 percent, and unhealthy populations having the lowest probability of persistence (between 10 and 60 percent). Functionally extirpated populations are not expected to persist over 20 years or are already extirpated.

Guadalupe Fatmucket

Overall, there is one known remaining population of Guadalupe fatmucket, in the Guadalupe River. Historically, Guadalupe fatmucket likely occurred through the Guadalupe River Basin, but it currently only occurs in the upper Guadalupe River in an unhealthy population with low abundance and little evidence of reproduction or recruitment. Very few individuals have been found in recent years. The upper Guadalupe River in this reach already experiences very low water levels, and these low water events are expected to continue into the future; the population is unlikely to rebound from any degraded habitat conditions.

Texas Fatmucket

Overall, there are five known remaining populations of Texas fatmucket, all limited to the headwater reaches of the Colorado River and its tributaries. Historically, most Texas fatmucket populations were likely connected by fish migration throughout the Colorado River Basin, but due to impoundments and low water conditions in the Colorado River and tributaries, they are currently isolated

from one another, and repopulation of extirpated locations is unlikely to occur without human assistance. Two of the current populations are moderately healthy, two are unhealthy, and one is functionally extirpated.

Lower Elm Creek: The Elm Creek population of Texas fatmucket is extremely small and isolated. This population will continue to face threats from excessive sedimentation and deterioration of substrate, altered hydrology associated with anthropogenic activities and the effects of climate change, and water quality degradation. The poor habitat conditions and only a single individual found at this site more than a decade ago indicate a population that is unlikely to persist and may already be extirpated.

Upper/Middle San Saba River: The population of Texas fatmucket in the upper/middle San Saba River is currently moderately healthy. Most of the flows in the Upper San Saba River (in Menard County, Texas) are from Edwards Formation springs, where the river gains streamflow from groundwater except for a reach that loses flow to the aquifer (called a losing reach) near the Menard/Mason County line (LBG-Guyton 2002, p. 3). It is in this losing reach where drought effects are especially noticeable, as some flows may percolate downward to the aquifer. Much of the middle San Saba River below Menard is reported to have gone dry for 10 of the last 16 years by landowners downstream of Menard (Carollo Engineers 2015, p. 2). Regardless of the cause, low flows in the San Saba River have resulted in significant stream drying, and stranded central Texas mussels, including Texas fatmucket and Texas pimpleback, have been identified following dewatering as recently as 2015 near and below the losing reach (TPWD 2015, p. 3). During the 2011–2013 drought, stream flows in the San Saba River were critically low, such that several water rights in Schleicher, Menard, and McCulloch Counties were suspended by the Texas Commission on Environmental Quality (TCEQ; TCEQ 2013, entire). These very low flow events are expected to continue into the future and put the upper/middle San Saba River population of Texas fatmucket at risk of extirpation. Even if the locations of Texas fatmucket do not become dry, water quality degradation and increased sedimentation associated with low flows is expected.

Llano River: The Llano River population of Texas fatmucket is currently moderately healthy, and collection of the species is frequent at

this location, although there has been limited evidence that the population is successfully reproducing. We expect flows to continue to decline and the frequency of extreme flow events to increase, leading to increased sedimentation, decreased water quality, and scour. As a result, the population of Texas fatmucket is expected to decline.

Pedernales River: The population of Texas fatmucket in the Pedernales River is very small and isolated. The Pedernales River is a flashy system, which experiences extreme high flow events, especially in the lower reaches in the vicinity of Pedernales Falls State Park and below. Occasional, intense thunderstorms can dramatically increase streamflow and mobilize large amounts of silt and organic debris (LCRA 2017, p. 82). The continued increasing frequency of high flow events combined with very low Texas fatmucket abundance in the river result in a population that is likely to be extirpated and currently is unhealthy.

Onion Creek: Few live individuals of Texas fatmucket have been found in Onion Creek since 2010, and we consider this population to be functionally extirpated with little chance of persistence. The upper reaches of Onion Creek frequently go dry, and several privately owned low-head in-channel dams currently exist along upper and lower Onion Creek, which further provide barriers to fish passage and mussel dispersal, preventing recolonization after low water events. Onion Creek is in close proximity to the City of Austin, and continued development in the watershed is expected to continue to degrade habitat conditions.

Guadalupe Orb

There are two known remaining populations of the Guadalupe orb, all in the Guadalupe River Basin. Historically, Guadalupe orb likely occurred throughout the basin with populations connected by fish migration, but due to impoundments and low water conditions, they are currently isolated from one another, and repopulation of extirpated locations is unlikely to occur without human assistance. Both Guadalupe orb populations are moderately healthy.

Upper Guadalupe River: The Guadalupe orb population in the upper Guadalupe River occurs over approximately 95 river mi (153 river km), and water quantity and quality are in moderate condition. However, the population occurs in low numbers, with limited reproduction; this population is unhealthy and is expected to become functionally extirpated in the near

future. This stream reach is expected to be sensitive to potential changes in groundwater inputs to stream flow. Thus, the stream reach is vulnerable to ongoing and future hydrological alterations that reduce flows, and thereby result in substrate and water quality degradations, during critical conditions.

San Marcos/Lower Guadalupe Rivers: In the San Marcos and Lower Guadalupe River, the Guadalupe orb population currently occupies a relatively long stream length, is observed in relatively high abundances, and exhibits evidence of reproduction. Significant spring complexes contribute substantially to baseflow during dry periods in this system and are expected to continue to contribute to baseflows for the next 50 years due to conservation measures implemented by the Edwards Aquifer Habitat Conservation Plan's partners. These measures bolster the resiliency of this population. However, this population is subject to extreme high flow events that scour and mobilize the substrate, and water quality degradation and sedimentation are threats, putting the population at risk of decline.

Texas Pimpleback

There are five known remaining Texas pimpleback populations, all in the Colorado River Basin. Historically, Texas pimpleback likely occurred throughout the basin with populations connected by fish migration, but due to impoundments and low water conditions, they are currently fragmented and isolated from one another, and repopulation of extirpated locations is unlikely to occur without human assistance. Three of the remaining Texas pimpleback populations are unhealthy and are not reproducing, and two of the populations are in moderate condition.

Concho River: The Texas pimpleback population in the Concho River is limited by very low levels of flowing water (including periods of almost complete dewatering), poor water quality, and poor substrate quality associated with excessive sedimentation. The drought of 2011–2013 resulted in extremely low flows in this river, and only one live adult has been found since that time. This population may currently be functionally extirpated.

Middle Colorado/Lower San Saba Rivers: The population of Texas pimpleback in the middle Colorado and lower San Saba River is the largest known. This population has relatively high abundance but little evidence of reproduction, so we expect this

population to decline as old individuals die and very few young individuals are recruited into the reproducing population. The combination of reduced flows, degraded water quality, and substrate degradation will reduce the resiliency of this population and may cause it to become extirpated. Therefore, this population is moderately healthy.

Upper San Saba River: Similar to other populations of Texas pimpleback, the population in the Upper San Saba River is currently unhealthy and does not appear to be reproducing. Regardless of the high risk of low water levels, the very small population size and lack of reproduction will likely result in the extirpation of this population. Because of the losing reach near Hext, Texas, that serves to separate the upper and lower San Saba River populations, along with differences in substrate, this population is isolated and no longer connected to the lower San Saba River population.

Llano River: The population of Texas pimpleback in the Llano River occupies a very short stream length, and the population is negatively affected by substrate degradation during periods of low flows. This population, due to ease of access to the location, is especially vulnerable to the threat of overcollection and vandalism. The small population size and frequency of low water levels, and flooding with scour, cause this population to be unhealthy.

Lower Colorado River: Currently, the population of Texas pimpleback in the lower Colorado River is relatively abundant over a long stream length. However, because the species is a riffle specialist, the Texas pimpleback is especially sensitive to hydrological alterations leading to both extreme drying (dewatering) during low flow events, and to extreme high flow events leading to scouring of substrate and movement of mature individuals to sites that may or may not be appropriate, as evidenced by the August 2017 scouring flood event that substantially degraded the quality of the Altair Riffle in the lower Colorado River, a formerly robust mussel bed. While this population is in moderate condition, we expect this population to be at risk of extirpation due to these extreme flow events.

Balcones Spike

Overall, there are three known remaining populations of Balcones spike, comprising less than 3 percent of the species' known historical range. Historically, most Balcones spike populations were likely connected by fish migration throughout each of the Brazos and Colorado River basins, but

due to impoundments they are currently fragmented and isolated from one another, and repopulation of extirpated locations is unlikely to occur without human assistance. Based on our analysis as described in the SSA report, the three populations are unhealthy.

Little River and tributaries: The Little River population is considered to have low resiliency currently due to the small size of the population. Development in the watershed has reduced water quality and substrate conditions currently, and habitat factors are expected to continue to decline because of alterations to flows and water quality associated primarily with increasing development in the watershed as the Austin-Round Rock (Texas) metropolitan area continues to expand. Low water levels remain a concern that is mediated somewhat by the likelihood that enhanced return flows associated with the development and use of alternative water supplies will bolster base flows somewhat. The small size of the population combined with continued habitat degradation put this population at high risk of extirpation; this population is unhealthy.

Lower San Saba River: The lower San Saba River population is currently small and isolated, and therefore has low resiliency and is considered unhealthy. The population has low abundance, and a lack of reproduction and subsequent recruitment, and we expect it to become functionally extirpated in the next 10 years. Future degradation of habitat factors is expected as flows continue to be diminished, most notably by altered precipitation patterns (that result in dewatering droughts and scouring floods) combined with enhanced evaporative demands and anthropogenic withdrawals to support existing and future demands for municipal and agricultural water.

Llano River: The Llano River population is currently very small and isolated, and therefore has low resiliency. The population occupies an extremely small area, and degradation of habitat is expected to continue as flows continue to decline due to altered precipitation patterns (dewatering droughts and scouring floods) combined with enhanced evaporative demands and anthropogenic withdrawals to support existing and future demands for municipal and agricultural water. Further, this population is well known and easy to access, has experienced high collection pressure in recent years, and has not shown recent evidence of reproduction. Therefore, this population is unhealthy, and we expect the population to become extirpated.

False Spike

Overall, there is one known remaining population of false spike, comprising approximately 20 percent of the species' known historical range. Historically, most false spike populations were likely connected by fish migration throughout the Guadalupe River Basin, but due to impoundments, the false spike is currently isolated in the lower portion of the Guadalupe River and repopulation of extirpated locations is unlikely to occur without human assistance. Based on our analysis as described in the SSA report, the population is moderately healthy.

Lower Guadalupe River: The lower Guadalupe River population of false spike is the only remaining population of the species and considered to have low resiliency. The population has fairly high abundance over a long reach, and flow protections afforded by the Edwards Aquifer Habitat Conservation Plan have contributed substantially to the resiliency of this population by sustaining base flows above critical levels. However, despite these base flow protections, this population remains vulnerable to changes in water quality, sedimentation, and extreme high flow events, such as from hurricanes or other strong storms, which scour and deplete mussel beds (Strayer 1999, pp. 468–469). Overall, this population is moderately healthy.

Texas Fawnsfoot

There are seven known remaining populations of Texas fawnsfoot, in the Trinity, Brazos, and Colorado River basins. Historically, Texas fawnsfoot occurred throughout each basin with populations connected by fish migration within each basin, but due to impoundments and low water conditions, they are currently isolated from one another, and repopulation of extirpated locations is unlikely to occur without human assistance. Four Texas fawnsfoot populations are moderately healthy, and three are unhealthy.

East Fork Trinity River: The Texas fawnsfoot population in the East Fork Trinity River occupies a small stream reach (12 mi (19 km)), making it especially vulnerable to a single stochastic event such as a spill or flood and changes to water quality. Further, no observations of recent reproduction exist for this population; all observed Texas fawnsfoot individuals are adults, greater than 35 mm. This population is small and isolated from the middle and lower Trinity River population by habitat that is unsuitable primarily because of altered hydrology, as flows from the Dallas-Fort Worth metro area

are too flashy to provide suitable habitat for Texas fawnsfoot. Therefore, this population is moderately healthy.

Middle Trinity River: Texas fawnsfoot in the Trinity River have experienced improved water quality over the past 30 years due to advancements in wastewater treatment technology and facilities, and streamflow has been subsidized by return flows originating in part from other basins, although water quality degradation and sedimentation are still affecting Texas fawnsfoot in this reach. Additionally, the middle Trinity River is a relatively long and unobstructed reach of river. While habitat may decline, this population is in moderate condition, and, therefore, we expect the population of Texas fawnsfoot to persist in the middle Trinity River, as we expect that flows will remain within a normal range of environmental variation in this reach. Therefore, this population is moderately healthy.

Clear Fork Brazos River: The Texas fawnsfoot population in the Clear Fork of the Brazos River is very small and isolated. This population likely experienced extensive mortality associated with prolonged dewatering during the 2011–2013 drought, combined with ambient water quality degradation associated with naturally occurring elevated salinity levels from the upper reaches of the river. This population is likely functionally extirpated, although more survey effort is needed to reach a definitive conclusion. Further, the proposed Cedar Ridge Reservoir, if constructed, would result in significant hydrologic alterations, which would further degrade the overall condition of this population of Texas fawnsfoot. Therefore, this population is unhealthy.

Upper Brazos River: The population of Texas fawnsfoot in the Upper Brazos River is characterized by low abundance and lack of evidence of reproduction. This reach of the river experiences reduced flows associated with continued drought and upstream dam operations. Further, water quality degradation associated with naturally occurring salinity is expected to continue. This population is at risk of extirpation due to its small population size and continued poor habitat conditions. Therefore, this population is unhealthy.

Middle/Lower Brazos River: The population of Texas fawnsfoot in the middle and lower Brazos River occupies a fairly long reach of river (346 mi (557 km)) and exhibits evidence of reproduction. The lack of major impoundments and diversions in the Brazos River below Waco, Texas, results

in the maintenance of a relatively natural hydrological regime. Even so, Texas fawnsfoot surveys have yet to yield the species in numbers that would indicate a healthy population, and future habitat degradation from reduced flows, increased temperatures, and decreased water quality will likely reduce the resiliency of this population. Therefore, this population is moderately healthy.

Lower San Saba River: Texas fawnsfoot in the lower San Saba River are found in low abundance with little evidence of reproductive success and subsequent recruitment of new individuals to the population. Sedimentation is high, due in part to reductions in flowing water over time due to a combination of increased water withdrawals and drought. We expect this population to become functionally extirpated due to lack of water and increased sedimentation. Therefore, this population is unhealthy.

Lower Colorado River: The Texas fawnsfoot population in the lower Colorado River is expected to remain extant under current conditions, as this reach is expected to remain wetted, although with reduced flow. Despite increasing demands for municipal water, we expect that the lower Colorado River will continue to flow due to priority downstream agricultural and industrial water rights. Similar to the lower Brazos River population, Texas fawnsfoot in the lower Colorado River are vulnerable to reduced flows and associated habitat degradation due to reductions in flow from upstream tributaries; because the species occurs in bank habitats that are likely to become exposed, the species will be subjected to desiccation, predation, and increased water temperatures as river elevations decline while the river still flows in its main channel. Currently, the Lower Colorado River Authority is implementing a water management plan that is alleviating this threat by providing consistent subsistence flows to the lower Colorado River Basin. Therefore, this population is moderately healthy.

Future-Condition Scenarios for the Texas Fawnsfoot

Because of significant uncertainty regarding if and when flow loss, water quality degradations, extreme flooding and scour/substrate mobilizing events, or impoundment construction may occur, we have forecasted future viability for the Texas fawnsfoot in terms of resiliency, redundancy, and representation under four plausible future scenarios. Each scenario is projected across up to three time steps

and considers the biological status of this species' populations and habitats in ten, twenty-five, and fifty years. Ten years represents one to two generations of mussels, assuming an average reproductive life span of five to ten years. Twenty-five years similarly represents two to four mussel generations. Fifty years represents five or more generations of mussels and corresponds with the current planning horizon of the State Water Plans (from 2020 to 2070), a period of time for which the human population of the State of Texas is expected to grow 88% from 27 million to 51 million (TWDB 2017, p. 3) with much of the growth of human population occurring in the watersheds these seven species of mussels currently occupy (TWDB 2017, pp. 50–51). Below, we provide a brief summary of each plausible future scenario; for more detailed information on these models and their projections, please see the SSA report (Service 2022, chapter 7).

Under Scenario 1, which considers a future where the current levels of existing degradation as well as existing conservation, current as of the preparation of the SSA report, continue for the next 50 years, a loss of resiliency, representation, and redundancy is expected. Under this scenario, we predicted that the effects of current levels of climate change continue to result in low streamflow, which lead to increased sedimentation, reduced water quality, and occasional desiccation. One population of Texas fawnsfoot remains in moderate condition, three populations are considered unhealthy, and three populations are functionally extirpated. Those populations in unhealthy condition are particularly vulnerable to extirpation.

Under Scenario 2, which considers a future where "feasible and appropriate conservation plans" are implemented over the next 50 years, including Candidate Conservation Agreements with Assurances in the Brazos and Colorado River basins that provide coverage for the species, Texas fawnsfoot populations generally maintain, or slightly improve, resiliency, redundancy, and representation over time as conservation measures are implemented to counteract existing stressors. Under this scenario, we predict that the effects of current levels of climate change continue to result in low stream flows, which lead to increased sedimentation, reduced water quality, and occasional desiccation, but water conservation measures and riparian improvements aid some populations. One population of Texas fawnsfoot is considered

healthy, three are in moderate condition, two populations are considered unhealthy, and one population is functionally extirpated. Those populations in unhealthy condition are particularly vulnerable to extirpation.

Under Scenario 3, which considers a future where conditions are no better for the species than the status quo Current Conditions, a loss of resiliency, representation, and redundancy is expected for the Texas fawnsfoot. Under this scenario we predict that intermediate climate effects, including more frequent and intense droughts, combined with increased ground- and surface-water demands associated with increased human demand, reductions in streamflow are expected to occur in all streams and rivers, and those effects will be more pronounced in the upper basins. Scenario 3 considers additional water projects, such as wastewater treatment plant outfalls, only if currently proposed or planned. Four populations of Texas fawnsfoot are considered unhealthy, three are in moderate condition, two populations are considered unhealthy, and three populations are functionally extirpated. Those populations in unhealthy condition are particularly vulnerable to extirpation.

Under Scenario 4, which considers a future where conditions are not better for the species than the status quo Current Conditions under severe climate effects. This scenario considers severe climate effects, and we predict more frequent and intense droughts, increased ground- and surface-water demands associated with increased human demand, additional water projects, like wastewater treatment plant outfalls, as well as possible new reservoirs and other construction projects. The effects of strong levels of climate change result in even lower stream flows, which lead to increased sedimentation, reduced water quality, and desiccation. Three populations of Texas fawnsfoot are considered unhealthy, and four populations are considered functionally extirpated. Those populations in unhealthy condition are particularly vulnerable to extirpation.

As part of the SSA, we also developed three future-condition scenarios to capture the range of uncertainties regarding future threats and the projected responses by the Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike. Our scenarios assumed a moderate or enhanced probability of severe drought, and either propagation or no propagation of the species.

Because we determined that the current condition of these six central Texas mussels is consistent with an endangered species (see Determination of Status, below), we are not presenting the results of the future scenarios in this final rule. Please refer to the SSA report (Service 2022) for the full analysis of future scenarios for these six species.

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have analyzed the cumulative effects of identified threats and conservation actions on the species. To assess the current and future condition of the species, we evaluate the effects of all the relevant factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to each entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

Conservation Efforts and Regulatory Mechanisms

Since 2011, when three of the central Texas mussel species became candidates for listing under the Act, many agencies, nongovernmental organizations, and other interested parties have been working to develop voluntary agreements with private landowners to restore or enhance habitats for fish and wildlife in the region, including in the watersheds where the central Texas mussels occur. These agreements provide voluntary conservation including upland habitat enhancements that will, if executed properly, reduce threats to the species while improving instream physical habitat and water quality, as well as adjacent riparian and upland habitats. Additionally, the Brazos, Lower Colorado, and Trinity river authorities have each developed and implemented candidate conservation agreements with assurances to benefit one or more species of candidate mussels, including the Texas fatmucket, Texas fawnsfoot, Texas pimpleback, and Balcones spike in their basins (see *Private or Other Non-Federal Conservation Plans Related to Permits Under Section 10 of the Act*, below). Some publicly and privately owned lands in the watersheds occupied by the central Texas mussels are protected with conservation easements or are otherwise managed to support populations of native fish, wildlife, and plant populations. The U.S. Department of Agriculture's Natural Resources Conservation Service

(NRCS), along with the Service and State and local partners, is working with private landowners to develop and implement comprehensive conservation plans to address soil, water, and wildlife resource concerns in the lower Colorado River Basin through a Working Lands for Wildlife project (NRCS no date, entire).

There are active efforts to protect, maintain, and improve existing water quantity in waters known to be important for mussel populations and to reduce threats of flow loss. These efforts include the establishment of the Texas Instream Flow Program by the Texas Legislature as part of Senate Bill 2 in 2001, and the creation of a “comprehensive, statewide process to protect environmental flows” in Senate Bill 3 (SB3) in 2007. Senate Bill 3 also directs the Environmental Flows Advisory Group (EFAG) to develop a schedule for development of environmental flow regime recommendations and the adoption of environmental flow standards within the State. This process allows for other groups to develop information on environmental flow needs and ways in which those needs can be met for basins for which the EFAG has not yet established environmental flow standard schedules (Loeffler 2015, entire). The Hydrology-based Environmental Flow Regime (HEFR; Opdyke et al. 2014, entire) tool was developed during the SB3 process and describes flow regimes in terms of subsistence flows, base flows, pulse flows, and overbank floods, and it applies the “indicators of hydrologic assessment” (IHA; TNC 2009, entire) to determine hydrologic separation and then inform an environmental flow recommendation. Environmental flow recommendations have been set for each of the river basins occupied by the species that are the subjects of this rule.

The Service has been hosting annual mussel research and coordination meetings to help manage and monitor scientific collection of mussel populations and encourage collaboration among researchers and other conservation partners since 2018 (Service 2018, p. 1; Service 2019a, p. 1). Additionally, work is under way to evaluate methods of captive propagation for the central Texas mussel species at the Service’s hatchery and research facilities (San Marcos Aquatic Research Center, Inks Dam National Fish Hatchery, and Uvalde National Fish Hatchery), including efforts to collect gravid females from the wild to infest host fish (Bonner et al. 2018, pp. 8, 9, 11).

Determination of Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an “endangered species” as a species in danger of extinction throughout all or a significant portion of its range, and a “threatened species” as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of endangered species or threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

Status Throughout All of Its Range

After evaluating threats to these seven species and assessing the cumulative effect of the threats under the Act’s section 4(a)(1) factors, we found that all seven species of the central Texas mussels have declined significantly in overall distribution and abundance. At present, most of the known populations exist in very low abundances and show limited evidence of recruitment. Furthermore, existing available habitats are reduced in quality and quantity, relative to historical conditions. Our analysis revealed five primary threats that caused these declines and pose a meaningful risk to the viability of the species. These threats are primarily related to habitat changes (Factor A from the Act): the accumulation of fine sediments, altered hydrology, and impairment of water quality, all of which are exacerbated by the effects of climate change. Collection (Factor B), and predation (Factor C) are also affecting those populations already experiencing low stream flow, and barriers to fish movement (Factor E) limit dispersal and prevent recolonization after stochastic events.

Because of historical and ongoing habitat destruction and fragmentation, remaining central Texas mussel populations are now fragmented and isolated from one another, interrupting the once functional metapopulation dynamic that historically made mussel populations robust and very resilient to change. The existing fragmented and

isolated mussel populations are largely in a state of chronic degradation due to a number of historical and ongoing stressors affecting flows, water quality, sedimentation, and substrate quality. Given the high risk of catastrophic events including droughts and floods, both of which are exacerbated by climate change, many central Texas mussel populations are at a high risk of extirpation.

Beginning around the turn of the 20th century until 1970, more than 100 major dams were constructed, creating reservoirs across Texas, including several reservoirs in the Brazos and Trinity basins, the chain of Highland Lakes on the Lower Colorado River, the Guadalupe Valley Hydroelectric Project, and the Canyon Reservoir on the Guadalupe River (Dowell 1964, pp. 3–8). The inundation and subsequent altered hydrology and sediment dynamics associated with operation of these flood-control, hydropower, and municipal water supply reservoirs have resulted in irreversible changes to the natural flow regime of these rivers. These changes have re-shaped and fragmented these aquatic ecosystems and fish and invertebrate communities, including populations of the seven species of central Texas mussels, which all depend on natural river flows.

Water quality has benefited from dramatically improved wastewater treatment technology in recent years, such that fish populations have rebounded but not completely recovered (Perkin and Bonner 2016, p. 97). However, water quality degradation continues to affect mussels and their habitats, especially as low flow conditions and excessive sedimentation interact to diminish instream habitats, and substrate-mobilizing and mussel-scouring flood events have become more extreme and perhaps more frequent.

Additionally, while host fish may still be adequately represented in contemporary fish assemblages, access to fish hosts can be reduced during critical reproductive times by barriers such as the many low-water crossings and low-head dams that now exist and fragment the landscape. Diminished access to host fish leads to reduced reproductive success just as barriers to fish passage impede the movement of fish, and thus compromise the ability of mussels to disperse and colonize new habitats following a disturbance (Schwalb et al. 2013, p. 447).

Populations of each of the seven central Texas mussels face risks from declining water quantity in both large and small river segments. Low flows lead to dewatering of habitats and desiccation of individuals, elevated

water temperatures, other quality degradations, and increased exposure to predation. Finally, direct mortality due to predation and collection further limits population sizes of those populations, which are already experiencing the stressors discussed above.

These threats, alone or in combination, are expected to cause the extirpation of additional mussel populations, further reducing the overall redundancy and representation of each of the seven species of central Texas mussels. Historically, each species, with a large range of interconnected populations (*i.e.*, having metapopulation dynamics), would have been resilient to stochastic events such as drought, excessive sedimentation, and scouring floods because even if some locations were extirpated by such events, they could be recolonized over time by dispersal from nearby survivors and facilitated by movements by “affiliate species” of host fish (Douda et al. 2012, p. 536). This connectivity across potential habitats would have made for highly resilient species overall, as evidenced by the long and successful evolutionary history of freshwater mussels as a taxonomic group, and in North America in particular. However, under present circumstances, restoration of that connectivity on a regional scale is not feasible. As a consequence of these current conditions, the viability of the Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike now primarily depends on maintaining and improving the remaining isolated populations and potentially restoring new populations where feasible. Additionally, the viability of the Texas fawnsfoot into the future depends on maintaining connectivity of populations and access to fish hosts within the Brazos, Colorado, and Trinity basins.

Guadalupe Fatmucket

The Guadalupe fatmucket has only one remaining population, and very few individuals have been detected and reported in recent years. The upper Guadalupe River in this reach already experiences very low water levels, putting this population at high risk of extirpation. The species has very low viability, with a single population at high risk of extirpation, and no additional representation or redundancy. Our analysis of the species’ current condition, as well as the conservation efforts discussed above, shows that the Guadalupe fatmucket is currently in danger of extinction throughout all of its range due to the

severity and immediacy of threats currently impacting the species.

Texas Fatmucket

Of the five remaining fragmented and isolated populations of Texas fatmucket, two are small in abundance and occupied stream length and have low to no resiliency (*i.e.*, they are unhealthy), and one population is functionally extirpated. The other two current populations are moderately healthy. The upper/middle San Saba and Llano River populations are larger, with increased abundance and occupied stream length, but these populations are vulnerable to stream drying and overcollection. These very low flow events are expected to continue into the future, and both of these populations of Texas fatmucket are at risk of extirpation. Even if the locations of Texas fatmucket do not become dry, water quality degradation and increased sedimentation associated with low flows is expected. Additionally, the Llano River population does not appear to be successfully reproducing, further increasing the species’ risk of extirpation at this location. The Texas fatmucket has no populations that are currently considered healthy. Loss of populations at high risk of extirpation leads to low levels of redundancy and representation. Overall, these low levels of resiliency, redundancy, and representation result in the Texas fatmucket having low viability, and the species currently faces a high risk of extinction. Our analysis of the species’ current condition shows that the Texas fatmucket is currently in danger of extinction throughout all of its range due to the severity and immediacy of threats currently impacting the species.

Guadalupe Orb

Only two fragmented and isolated populations of Guadalupe orb remain, and one of these populations is functionally extirpated. The San Marcos/Lower Guadalupe River population is more resilient but is at risk of catastrophic events, such as hurricane flooding, that can scour and reduce the abundance and distribution of this population. The Guadalupe orb has no populations that are considered healthy. Loss of populations at high risk of extirpation leads to low levels of redundancy and representation, and results in overall low viability. The Guadalupe orb currently faces a high risk of extinction. Our analysis of the species’ current condition, as well as the conservation efforts discussed above, shows that the Guadalupe orb is currently in danger of extinction throughout all of its range due to the

severity and immediacy of threats currently impacting the species.

Texas Pimpleback

Of the five remaining Texas pimpleback populations, three are unhealthy and are not reproducing, and two are moderately healthy. The populations that are not reproducing are considered functionally extirpated, and the two moderately healthy populations are expected to continue to decline. The population in the middle Colorado and lower San Saba Rivers has very little evidence of reproduction and is therefore likely to decline due to a lack of young individuals joining the population as the population ages. The lower Colorado River population has very recently experienced an extreme high flow event (*i.e.*, associated with Hurricane Harvey flooding in August and September of 2017) that vastly changed the substrate and mussel composition of much of its length, putting this population at high risk of extirpation. The Texas pimpleback has no healthy populations, and all populations are expected to continue to decline. Loss of populations at high risk of extirpation leads to low levels of redundancy and representation. Overall, these low levels of resiliency, redundancy, and representation result in the Texas pimpleback having low viability, and the species currently faces a high risk of extinction. Our analysis of the species’ current condition, as well as the conservation efforts discussed above, shows that the Texas pimpleback is currently in danger of extinction throughout all of its range due to the severity and immediacy of threats currently impacting the species.

Balcones Spike

The three remaining fragmented and isolated populations of Balcones spike are small in abundance and occupied stream length, having low to no resiliency. Therefore, the Balcones spike has no populations that are currently considered healthy. Loss of populations at high risk of extirpation leads to low levels of redundancy and representation. The threats identified above are occurring now and are expected to continue into the future. Overall, these low levels of resiliency, redundancy, and representation result in the Balcones spike having low viability, and the species currently faces a high risk of extinction. Our analysis of the species’ current condition demonstrates that the Balcones spike is currently in danger of extinction throughout all of its range due to the severity and immediacy of threats currently impacting the species.

False Spike

The false spike has only one remaining population that is currently in moderately healthy condition. Due to the species having a single population remaining that is at high risk of extirpation, the false spike is considered to have very low viability and no additional representation or redundancy. Our analysis of the species' current condition, as well as the conservation efforts discussed above, shows that the false spike is currently in danger of extinction throughout all of its range due to the severity and immediacy of threats currently impacting the species.

Our analysis of the species' current conditions, as well as the conservation efforts discussed above, show that the Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, false spike, and Balcones spike are currently in danger of extinction throughout all their ranges due to the severity and immediacy of threats currently impacting their populations. The risk of extinction is high because the remaining fragmented populations have a high risk of extirpation, are isolated, and have limited potential for recolonization. We find that a threatened species status is not appropriate for Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike because of their currently contracted ranges, because all populations are fragmented and isolated from one another, because the threats are occurring across the entire range of these species, and because the threats are ongoing currently and are expected to continue or worsen into the future. Because these species are already in danger of extinction throughout their ranges, a threatened status is not appropriate.

Texas Fawnsfoot

Seven populations of the Texas fawnsfoot remain. Four populations are moderately healthy, and three are unhealthy or are functionally extirpated. Currently, unlike the other populations of this species, two of the moderately healthy populations are not subject to flow declines, due to increased flow returns in the Trinity River from wastewater treatment facilities and a lack of impoundments on the mainstem of the lower Brazos River. In the future, however, as extreme flow events become more frequent as rainfall patterns change, and increased urbanization results in reduced groundwater levels, we expect even these populations to be at an increased risk of extirpation. Future higher air

temperatures, higher rates of evaporation and transpiration, and changing precipitation patterns are expected within the range of the Texas fawnsfoot in central Texas (Jiang and Yang 2012, pp. 234–239, 242). These future climate changes are expected to lead to human responses, such as increased groundwater pumping and surface water diversions, associated with increasing demands for and decreasing availability of freshwater resources in the State (reviewed in Banner et al. 2010, entire). Within 25 to 50 years, even under the best conditions and with additional conservation efforts undertaken, given the ongoing effects of climate change and human activities on altered hydrology and habitat degradation, we expect only one population to be in healthy condition, one population to remain in moderately healthy condition, four populations to be in unhealthy condition, and one population to become functionally extirpated. Given the likelihood of increased climate and anthropogenic effects in the foreseeable future, as many as three populations are expected to become functionally extirpated, leaving no more than four unhealthy populations remaining after 25 years. After 50 years, we anticipated that as many as five populations are expected to become functionally extirpated, leaving no more than three unhealthy populations. In the future, we anticipate that the Texas fawnsfoot will have reduced viability, with no highly resilient populations and limited representation and redundancy. Thus, after assessing the best available information, we determine that the Texas fawnsfoot is not currently in danger of extinction but is likely to become in danger of extinction within the foreseeable future throughout all of its range. Our analysis of the species' current and future conditions, as well as the conservation efforts discussed above, show that the Texas fawnsfoot is likely to become in danger of extinction throughout all or a significant portion of its range within the foreseeable future due to increased frequency of drought and extremely high flow events, decreased water quality, and decreased substrate suitability. We considered whether the Texas fawnsfoot is presently in danger of extinction and determined that endangered status is not appropriate. The current condition shows two of the populations in two of the representative units are not currently subject to declining flows or extreme flow events. While threats are currently acting on the species and many of those threats are expected to

continue into the future, we did not find that the species is currently in danger of extinction throughout all of its range. According to our assessment of plausible future scenarios, the species is likely to become an endangered species within the foreseeable future of 25 years throughout all of its range. Twenty-five years encompasses about 5 generations of the Texas fawnsfoot; additionally, models of human demand for water (Texas Water Development Board 2017, p. 30) and climate change (e.g., Kinniburgh et al. 2015, p. 83) project decreased water availability over 25 and 50 years, respectively. As a result, we expect increased incidences of low flows followed by scour events as well as persistent decreased water quality to be occurring in 25 years. Thus, after assessing the best available information, we determine that the Texas fawnsfoot is not currently in danger of extinction but is likely to become in danger of extinction within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range: Guadalupe Fatmucket, Texas Fatmucket, Guadalupe Orb, Texas Pimpleback, Balcones Spike, and False Spike

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. We have determined that the Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike are in danger of extinction throughout all of their ranges and, accordingly, did not undertake an analysis of whether there are any significant portions of these species' ranges. Because the Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike warrant listing as endangered throughout all of their ranges, our determination does not conflict with the decision in *Center for Biological Diversity v. Everson*, 435 F. Supp. 3d 69 (D.D.C. 2020), which vacated the provision of the Final Policy on Interpretation of the Phrase "Significant Portion of Its Range" in the Endangered Species Act's Definitions of "Endangered Species" and "Threatened Species" (Final Policy) (79 FR 37578, July 1, 2014) providing that if the Services determine that a species is threatened throughout all of its range, the Services will not analyze whether the species is endangered in a significant portion of its range.

Status Throughout a Significant Portion of Its Range: Texas Fawnsfoot

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. The court in *Center for Biological Diversity v. Everson*, 435 F. Supp. 3d 69 (D.D.C. 2020) (*Everson*), vacated the provision of the Final Policy on Interpretation of the Phrase “Significant Portion of Its Range” in the Endangered Species Act’s Definitions of “Endangered Species” and “Threatened Species” (Final Policy) (79 FR 37578; July 1, 2014) that provided if the Service determines that a species is threatened throughout all of its range, the Service will not analyze whether the species is endangered in a significant portion of its range.

Therefore, we proceed to evaluating whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species’ range for which both (1) the portion is significant; and (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the “significance” question or the “status” question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species’ range.

Following the court’s holding in *Everson*, we now consider whether there are any significant portions of the species’ range where the species is in danger of extinction now (*i.e.*, endangered). In undertaking this analysis for the Texas fawnsfoot, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species may be endangered.

We evaluated the range of the Texas fawnsfoot to determine if the species is in danger of extinction now in any portion of its range. The range of a species can theoretically be divided into portions in an infinite number of ways. We focused our analysis on portions of the species’ range that may meet the definition of an endangered species. For Texas fawnsfoot, we considered whether the threats or their effects on the species are greater in any biologically meaningful portion of the species’ range than in other portions

such that the species is in danger of extinction now in that portion.

We examined the following threats throughout the range of the species: the accumulation of fine sediments, altered hydrology, and impairment of water quality (Factor A); collection (Factor B); predation (Factor C); and barriers to fish movement (Factor E).

We identified a portion of the range of the Texas fawnsfoot, the upper Brazos River (including the populations in the upper Brazos River and Clear Fork Brazos River), that is experiencing a concentration of the following threats: altered hydrology and degraded water quality. Although these threats are not unique to this area, they are acting at a greater intensity here (*e.g.*, populations higher in the watershed and that receive less rainfall are more vulnerable to stream drying because there is a smaller volume of water in the river), either individually or in combination, than elsewhere in the range. In addition, the small sizes of each population, coupled with the current condition information in the SSA report indicating the two populations in this area are unhealthy, leads us to find that this portion provides substantial information indicating the populations occurring here may be in danger of extinction now.

We then proceeded to the significance question, asking whether there is substantial information indicating that this portion of the range (*i.e.*, the upper Brazos River and Clear Fork Brazos River) may be significant. As an initial note, the Service’s most recent definition of “significant” within agency policy guidance has been invalidated by court order (see *Desert Survivors v. U.S. Department of the Interior*, 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018)). In undertaking this analysis for the Texas fawnsfoot, we considered whether the upper Brazos River portion of the species’ range may be significant based on its biological importance to the overall viability of the Texas fawnsfoot. Therefore, for the purposes of this analysis, when considering whether this portion may be biologically significant, we considered whether the portion may (1) constitute a large geographic area relative to the range of the species as a whole; (2) occur in a unique habitat or ecoregion for the species; (3) contain high quality or high value habitat relative to the remaining portions of the range, for the species’ continued viability in light of the existing threats; or (4) contain habitat that is essential to a specific life-history function for the species and that is not found in the other portions (for

example, the principal breeding ground for the species).

We evaluated the available information about the portion of the range of the Texas fawnsfoot that occupies the upper Brazos River in this context, assessing its biological significance in terms of these three habitat criteria, and determined the information did not substantially indicate it may be significant. Texas fawnsfoot in these populations exhibit similar habitat and host fish use to Texas fawnsfoot in the remainder of the species’ range; thus, there is no unique observable environmental usage or behavioral characteristics attributable to just this area’s populations. The upper Brazos River constitutes 40 percent of the range for Texas fawnsfoot, and does not constitute a large geographic area relative the range of the species. This unit is not essential to any specific life-history function of the Texas fawnsfoot that is not found elsewhere in the range. Further, the habitat in the upper Brazos River is not of higher quality or higher value than the habitat in the remainder of the species’ range.

After reviewing the available information, we did not find that the upper Brazos River portion may be significant. Therefore, because we could not answer both the status and significance questions in the affirmative, we conclude that the upper Brazos River portion of the range does not warrant further consideration as a significant portion of the range.

We did not identify any portions of the Texas fawnsfoot’s range where: (1) the portion is significant; and (2) the species is in danger of extinction in that portion. Therefore, we conclude that the Texas fawnsfoot is likely to become in danger of extinction within the foreseeable future throughout all of its range. This does not conflict with the courts’ holdings in *Desert Survivors v. U.S. Department of the Interior*, 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018) and *Center for Biological Diversity v. Jewell*, 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) because, in reaching this conclusion, we did not apply the aspects of the Final Policy, including the definition of “significant” that those court decisions held to be invalid.

Determination of Status: Guadalupe Fatmucket, Texas Fatmucket, Guadalupe Orb, Texas Pimpleback, Balcones Spike, and False Spike

Our review of the best available scientific and commercial information indicates that the Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike meet the Act’s definition of an

endangered species. Therefore, we are listing the Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike as endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

Determination of Status: Texas Fawnsfoot

Our review of the best scientific and commercial data available indicates that the Texas fawnsfoot meets the Act's definition of a threatened species. Therefore, we are listing the Texas fawnsfoot as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition as a listed species, planning and implementation of recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies, including the Service, and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

The recovery planning process begins with development of a recovery outline made available to the public soon after a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions while a recovery plan is being developed. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) may be established to develop and implement recovery plans. The recovery planning

process involves the identification of actions that are necessary to halt and reverse the species' decline by addressing the threats to its survival and recovery. The recovery plan identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened ("downlisting") or removal from protected status ("delisting"), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (<https://www.fws.gov/program/endangered-species>), or from our Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their ranges may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Once these species are listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Texas will be eligible for Federal funds to implement management actions that promote the protection or recovery of the central Texas mussels. Information on our grant programs that are available to aid species recovery can be found at: <https://www.fws.gov/service/financial-assistance>.

Please let us know if you are interested in participating in recovery efforts for the central Texas mussels. Additionally, we invite you to submit any new information on these species whenever it becomes available and any

information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7 of the Act is titled Interagency Cooperation and mandates all Federal action agencies to use their existing authorities to further the conservation purposes of the Act and to ensure that their actions are not likely to jeopardize the continued existence of listed species or adversely modify critical habitat. Regulations implementing Section 7 are codified at 50 CFR part 402.

Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Each Federal agency shall review its action at the earliest possible time to determine whether it may affect listed species or critical habitat. If a determination is made that the action may affect listed species or critical habitat, formal consultation is required (50 CFR 402.14(a)), unless the Service concurs in writing that the action is not likely to adversely affect listed species or critical habitat. At the end of a formal consultation, the Service issues a biological opinion, containing its determination of whether the Federal action is likely to result in jeopardy or adverse modification.

Examples of discretionary actions for the central Texas mussels that may be subject to consultation procedures under section 7 of the Act are land management or other landscape-altering activities on Federal lands administered by the National Park Service as well as actions on State, Tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation. Federal agencies should coordinate with the local Service Field Office (see **FOR FURTHER INFORMATION CONTACT**) with any specific questions on section 7 consultation and conference requirements.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed any of the following: (1) Import endangered wildlife into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) endangered wildlife within the United States or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign commerce. Certain exceptions to these prohibitions apply to employees or agents of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits for endangered wildlife are codified at 50 CFR 17.22. With regard to endangered wildlife, a permit may be issued: for scientific purposes, for enhancing the propagation or survival of the species, or for take incidental to otherwise lawful activities. The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is the policy of the Service, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the extent known at the time a species is listed, specific activities that will not be considered likely to result in violation of section 9 of the Act. To the extent possible, activities that will be considered likely to result in violation will also be identified in as specific a manner as possible. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of the species.

Although most of the prohibitions in section 9 of the Act apply to endangered species, sections 9(a)(1)(G) and 9(a)(2)(E) of the Act prohibit the violation of any regulation under section 4 pertaining to any threatened species of fish or wildlife, or threatened species of plant, respectively. Section

4(d) of the Act directs the Secretary to promulgate protective regulations that are necessary and advisable for the conservation of threatened species. As a result, we interpret our policy to mean that, when we list a species as a threatened species, to the extent possible, we identify activities that will or will not be considered likely to result in violation of the protective regulations under section 4(d) for that species. For the Texas fawnsfoot, at this time, we are unable to identify specific activities that will or will not be considered likely to result in violation of section 9 of the Act beyond what is already clear from the descriptions of prohibitions and exceptions established by protective regulation under section 4(d) of the Act.

Questions regarding whether specific activities would constitute violation of section 9 of the Act should be directed to the Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**, above). See the discussion below under II. Final Rule Issued Under Section 4(d) of the Act, regarding protective regulations under section 4(d) of the Act for the Texas fawnsfoot.

For the central Texas mussels we are listing as endangered species (Guadalupe fatmucket, Texas fatmucket, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike), as discussed above, certain activities that are prohibited under section 9 may be permitted under section 10 of the Act. Additional activities that will not be considered likely to result in violation of section 9 of the Act may be identified during coordination with the local field office, and in some instances (e.g., with new information), the Service may conclude that one or more activities identified here will be considered likely to result in violation of section 9.

For the central Texas mussels we are listing as endangered species, to the extent currently known, the following is a list of examples of activities that will be considered likely to result in violation of section 9 of the Act in addition to what is already clear from the descriptions of the prohibitions found at 50 CFR 17.21:

- (1) Unauthorized handling or collecting of the species;
- (2) Modification of the channel or water flow of any stream in which the central Texas mussels are known to occur;
- (3) Livestock grazing that results in direct or indirect destruction of stream habitat; and
- (4) Discharge of chemicals or fill material into any waters in which the central Texas mussels are known to occur.

This list is intended to be illustrative and not exhaustive; additional activities that will be considered likely to result in violation of section 9 of the Act may be identified during coordination with the local field office, and in some instances (e.g., with new or site-specific information), the Service may conclude that one or more activities identified here will not be considered likely to result in violation of section 9.

Questions regarding whether specific activities would constitute violation of section 9 of the Act should be directed to the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**, above).

II. Final Rule Issued Under Section 4(d) of the Act

Background

Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as she deems necessary and advisable to provide for the conservation of species listed as threatened species. The U.S. Supreme Court has noted that statutory language similar to the language in section 4(d) of the Act authorizing the Secretary to take action that she “deems necessary and advisable” affords a large degree of deference to the agency (see *Webster v. Doe*, 486 U.S. 592 (1988)). Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. Thus, the combination of the two sentences of section 4(d) provides the Secretary with wide latitude of discretion to select and promulgate appropriate regulations tailored to the specific conservation needs of the threatened species. The second sentence grants particularly broad discretion to the Service when adopting one or more of the prohibitions under section 9.

The courts have recognized the extent of the Secretary’s discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld, as a valid exercise of agency authority, rules developed under section 4(d) that included limited prohibitions against takings (see *Alsea Valley Alliance v. Lautenbacher*, 2007 WL

2344927 (D. Or. 2007); *Washington Environmental Council v. National Marine Fisheries Service*, 2002 WL 511479 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana v. Verity*, 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, “once an animal is on the threatened list, the Secretary has an almost infinite number of options available to [her] with regard to the permitted activities for those species. [She] may, for example, permit taking, but not importation of such species, or [s]he may choose to forbid both taking and importation but allow the transportation of such species” (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

The provisions of this 4(d) rule will promote conservation of the Texas fawnsfoot by encouraging management of the landscape in ways that meet both land management considerations and the conservation needs of the Texas fawnsfoot. The provisions of this rule are one of many tools that we will use to promote the conservation of the Texas fawnsfoot.

As mentioned previously in Available Conservation Measures, section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species.

These requirements are the same for a threatened species with a species-specific 4(d) rule. For example, as with an endangered species, a Federal agency’s determination that an action is “not likely to adversely affect” a threatened species will require the Service’s written concurrence (see 50 CFR 402.13(c)). Similarly, if a Federal agency determines that an action is “likely to adversely affect” a threatened species, the action will require formal consultation and the formulation of a biological opinion (see 50 CFR 402.14(a)).

Provisions of the 4(d) Rule

Exercising the Secretary’s authority under section 4(d) of the Act, we have developed a rule that is designed to address the Texas fawnsfoot’s specific threats and conservation needs. As discussed above under Summary of Biological Status and Threats, we have concluded that the Texas fawnsfoot is likely to become in danger of extinction within the foreseeable future primarily

due to habitat degradation or loss stemming from hydrologic alterations by impoundments, including dams and other barriers to fish movement, and diminished water quality from point and nonpoint source pollution and siltation. These threats contribute to the negative effects associated with the species’ reduced range and the potential effects of climate change. Section 4(d) of the Act requires the Secretary to issue such regulations as she deems necessary and advisable to provide for the conservation of each threatened species and authorizes the Secretary to include among those protective regulations any of the prohibitions that section 9(a)(1) of the Act prescribes for endangered species. We find that the protections, prohibitions, and exceptions in this rule as a whole satisfy the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the Texas fawnsfoot.

The protective regulations for the Texas fawnsfoot incorporate prohibitions from section 9(a)(1) to address the threats to the species. Section 9(a)(1) prohibits the following activities for endangered wildlife: importing or exporting; take; possession and other acts with unlawfully taken specimens; delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; and selling or offering for sale in interstate or foreign commerce. This protective regulation includes all of these prohibitions because the Texas fawnsfoot is at risk of extinction in the foreseeable future and putting these prohibitions in place will help to prevent further declines, preserve the species’ remaining populations, slow its rate of decline, and decrease synergistic, negative effects from other ongoing or future threats.

In particular, this 4(d) rule will provide for the conservation of the Texas fawnsfoot by prohibiting the following activities, except as otherwise authorized or permitted: import/export, take, possession of unlawfully taken specimens, interstate or foreign commerce, and sale or offer for sale. As discussed above under Summary of Biological Status and Threats, loss and fragmentation of habitat from siltation, water quality degradation, and impoundments are affecting the status of the Texas fawnsfoot. A range of activities have the potential to affect the Texas fawnsfoot, including instream construction, channel modification, water withdrawals, flow releases from upstream dams, riparian vegetation removal, improper handling, farming

and grazing practices, and wastewater treatment facility outflows. Regulating take associated with these activities will help preserve the Texas fawnsfoot’s remaining populations, slow the rate of population decline, and decrease synergistic, negative effects from other stressors. Therefore, regulating take associated with activities that increase siltation, diminish water quality, alter stream flow, or reduce fish passage will help preserve and potentially provide for expansion of remaining populations and decrease synergistic, negative effects from other threats.

Under the Act, “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulations at 50 CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. Regulating take will help prevent further declines, preserve the species’ remaining populations, slow its rate of decline, and decrease synergistic, negative effects from other ongoing or future threats. Therefore, we are prohibiting take of the Texas fawnsfoot, except for take resulting from those actions and activities specifically excepted by the 4(d) rule.

Exceptions to the prohibition on take include most of the general exceptions to the prohibition on take of endangered wildlife, as set forth in 50 CFR 17.21 and certain other specific activities that we propose for exception, as described below.

The 4(d) rule will also provide for the conservation of the species by allowing exceptions that incentivize conservation actions or that, while they may have some minimal impact on the Texas fawnsfoot, are not expected to rise to the level that would have a negative impact (*i.e.*, would have only de minimis impacts) on the species’ conservation. The exceptions to these prohibitions include incidental and intentional take (described below) that are expected to have negligible impacts to the Texas fawnsfoot and its habitat.

Those exceptions include the following activities:

(1) Channel restoration projects that create natural, physically stable (streambanks and substrate remaining relatively unchanging over time), ecologically functioning streams or stream and wetland systems (containing an assemblage of fish, mussels, other invertebrates, and plants) that are reconnected with their groundwater aquifers. These projects can be accomplished using a variety of methods, but the desired outcome is a

natural channel with low shear stress (force of water moving against the channel); bank heights that enable reconnection to the floodplain; a reconnection of surface and groundwater systems, resulting in perennial flows in the channel; riffles and pools composed of existing soil, rock, and wood instead of large imported materials; low compaction of soils within adjacent riparian areas; and inclusion of riparian wetlands and woodland buffers. To qualify for this exception, a channel restoration project must satisfy all applicable Federal, State, and local permitting requirements. In addition, at least 30 days prior to commencing actual construction within an area designated as critical habitat for Texas fawnsfoot, notice must be provided to the Service, through the Austin Ecological Services Field Office, of the location and nature of the proposed work to allow the Service to make arrangements for surveys and potential relocation of any mussels that might be adversely affected. This exception to the 4(d) rule for incidental take would promote conservation of Texas fawnsfoot by creating stable stream channels that are less likely to scour during high flow events, thereby increasing population resiliency.

(2) Bioengineering methods such as streambank stabilization using native live stakes (live, vegetative cuttings inserted or tamped into the ground in a manner that allows the stake to take root and grow), native live fascines (live branch cuttings, usually willows, bound together into long, cigar-shaped bundles), or native brush layering (cuttings or branches of easily rooted tree species layered between successive lifts of soil fill). Methods that include the use of quarried rock (riprap) for more than 25 percent of the area within the streambanks or include the use of rock baskets or gabion structures do not qualify for this exception. In addition, to reduce streambank erosion and sedimentation into the stream, work using these bioengineering methods would be performed at base flow or low water conditions and when significant rainfall likely to result in significant runoff is not predicted at or upstream of the area where work is proposed for a period of at least 3 days after the work is scheduled to be undertaken. Further, streambank stabilization projects that involve the placement or use of equipment in the stream channels or water do not qualify for this exception. To qualify for this exception, a project using bioengineering methods must satisfy all applicable Federal, State, and

local permitting requirements. Similar to channel restoration projects, this exception to the 4(d) rule for incidental take would promote conservation of Texas fawnsfoot by creating stable stream channels that are less likely to scour during high flow events, thereby increasing population resiliency.

(3) Soil and water conservation practices and riparian and adjacent upland habitat management activities that restore instream habitats for the species, restore adjacent riparian habitats that enhance stream habitats for the species, stabilize degraded and eroding stream banks to limit sedimentation and scour of the species' habitats, restore or enhance nearby upland habitats to limit sedimentation of the species' habitats, and comply with conservation practice standards and specifications and technical guidelines developed by the NRCS and available from the Service. In addition, at least 30 days prior to commencing soil and water conservation practices within an area designated as critical habitat for the Texas fawnsfoot, notice must be provided to the Service, through the Austin Ecological Services Field Office, of the location and nature of the proposed work to allow the Service to make arrangements for surveys and potential relocation of any mussels that might be adversely affected. Soil and water conservation practices and aquatic species habitat restoration projects associated with NRCS conservation plans are designed to improve water quality and enhance fish and aquatic species habitats. This exception to the 4(d) rule for incidental take would promote conservation of Texas fawnsfoot by creating stable stream channels and reducing sediment inputs to the stream, thereby increasing population resiliency.

(4) Presence or abundance surveys for Texas fawnsfoot conducted by individuals who successfully complete and show proficiency by passing the end-of-course test with a score equal to or greater than 90 percent, and with 100 percent accuracy in identification of mussel species listed under the Act in an approved freshwater mussel identification and sampling course (specific to the species and basins in which the Texas fawnsfoot is known to occur), such as that administered by the Service, State wildlife agency, or qualified university experts. To qualify for this exception, those reports must be provided to the Service annually on the number, specific location (e.g., GPS coordinates), and date of the encounter. This exception does not apply if lethal take or collection is anticipated. This exception only applies for 5 years from

the date of successful completion of the course. This provision of the 4(d) rule for intentional take would promote conservation of Texas fawnsfoot by ensuring surveyors are proficient at identification of freshwater mussels and would add to the knowledge and understanding of the distribution of Texas fawnsfoot populations.

Despite these prohibitions regarding threatened species, we may under certain circumstances issue permits to carry out one or more otherwise prohibited activities, including those described above. The regulations that govern permits for threatened wildlife state that the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened species. These include permits issued for the following purposes: for scientific purposes, to enhance propagation or survival, for economic hardship, for zoological exhibition, for educational purposes, for incidental taking, or for special purposes consistent with the purposes of the Act (50 CFR 17.32). The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

We recognize the special and unique relationship with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist us in implementing all aspects of the Act. In this regard, section 6 of the Act provides that we shall cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with the Service in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, will be able to conduct activities designed to conserve the Texas fawnsfoot that may result in otherwise prohibited take without additional authorization.

Nothing in this 4(d) rule will change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of the Texas fawnsfoot. However, interagency cooperation may be further streamlined

through planned programmatic consultations for the species between Federal agencies and the Service.

III. Critical Habitat

Background

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, we designate a species' critical habitat concurrently with listing the species. Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.*, range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.*, migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

This critical habitat designation was proposed when the regulations defining "habitat" (85 FR 81411; December 16, 2020) and governing the section 4(b)(2) exclusion process for the Service (85 FR 82376; December 18, 2020) were in place and in effect. However, those two regulations have been rescinded (87 FR 37757, June 24, 2022, and 87 FR 43433; July 21, 2022) and no longer apply to any designations of critical habitat. Therefore, for this final rule designating critical habitat for the central Texas mussels, we apply the regulations at 50 CFR 424.19 and the Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act (hereafter, the "2016 Policy"; 81 FR 7226, February 11, 2016).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and

procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and translocation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that each Federal action agency ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Rather, designation requires that, where a landowner requests Federal agency funding or authorization for an action that may affect an area designated as critical habitat, the Federal agency consult with the Service under section 7(a)(2) of the Act. If the action may affect the listed species itself (such as for occupied critical habitat), the Federal action agency would have already been required to consult with the Service even absent the critical habitat designation because of the requirement to ensure that the action is not likely to jeopardize the continued existence of the species. Even if the Service were to conclude after consultation that the proposed activity is likely to result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement "reasonable and prudent alternatives" to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the

extent known using the best scientific data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the

critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 (for endangered species), and the 4(d) rule (for threatened species). Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Physical or Biological Features Essential to the Conservation of the Species

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas we will designate as critical habitat from within the geographical area occupied by the species at the time of listing, we consider the physical or biological features that are essential to the conservation of the species, and which may require special management considerations or protection. The regulations at 50 CFR 424.02 define “physical or biological features essential to the conservation of the species” as the features that occur in specific areas and that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. For example, physical features essential to the conservation of the species might include gravel of a particular size required for spawning, alkaline soil for seed germination, protective cover for

migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or absence of a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic essential to support the life history of the species.

In considering whether features are essential to the conservation of the species, we may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

Summary of Essential Physical or Biological Features

We derive the specific physical or biological features essential to the conservation of the central Texas mussels from studies of the species’ habitat, ecology, and life history as described below. Additional information can be found in the SSA report (Service 2022, entire; available on <https://www.regulations.gov> under Docket No. FWS-R2-ES-2019-0061). The life histories of the seven central Texas mussel species are very similar—mussels need flowing water, suitable substrate, suitable water quality, flow refuges, and appropriate host fish—and so we will discuss their common habitat needs and then describe any species-specific needs thereafter.

Space for Individual and Population Growth and for Normal Behavior

Most freshwater mussels, including the central Texas mussels, are found in aggregations, called mussel beds, that vary in size from about 50 to greater than 5,000 square meters (m²), separated by stream reaches in which mussels are absent or rare (Vaughn 2012, p. 983). Freshwater mussel larvae (called glochidia) are parasites that must attach to a host fish. A population incorporates more than one mussel bed; it is the collection of mussel beds within a

stream reach between which infested host fish may travel, allowing for ebbs and flows in mussel bed density and abundance over time throughout the population’s occupied reach. Therefore, sufficiently resilient mussel populations must occupy stream reaches long enough so that stochastic events that affect individual mussel beds do not eliminate the entire population. Repopulation by infested host fish from other mussel beds within the reach can allow the population to recover from these events. Longer stream reaches are more likely to support populations of the central Texas mussels into the future than shorter stream reaches. Therefore, we determine that long stream reaches, of more than 50 miles (80 km) in length, are an important component of a riverine system with habitat to support all life stages of the central Texas mussels.

All seven species of central Texas mussels need flowing water for survival. They are not found in lakes, reservoirs, or in pools without flow, or in areas that are regularly dewatered. River reaches with continuous flow support all life stages of the central Texas mussels, while those with little or no flow do not. Flow rates needed by each species will vary depending on the species and the river size, location, and substrate type.

Additionally, each species of central Texas mussel has specific substrate needs, including gravel/cobble (Guadalupe orb, Texas pimpleback, false spike, and Balcones spike), gravel/sand/silt (Texas fawnsfoot), and bedrock crevices/vegetated runs (Guadalupe fatmucket and Texas fatmucket). Except for habitats for Texas fawnsfoot, these locations must be relatively free of fine sediments such that the mussels are not smothered.

Physiological Requirements: Water Quality Requirements

Freshwater mussels, as a group, are sensitive to changes in water quality parameters such as dissolved oxygen, salinity, ammonia, and pollutants. Habitats with appropriate levels of these parameters are considered suitable, while those habitats with levels outside of the appropriate ranges are considered less suitable. We have used information for these seven central Texas mussel species, where available, and data from other species when species-specific information is not available. Juvenile freshwater mussels are particularly susceptible to low dissolved oxygen levels. Juveniles will reduce feeding behavior when dissolved oxygen is between 2–4 milligrams per liter (mg/L), and mortality has been shown to occur at dissolved oxygen levels below 1.3

mg/L. Increased salinity levels may also be stressful to freshwater mussels, and the central Texas mussels show signs of stress at salinity levels of 2 ppt or higher (Bonner et al. 2018, pp. 155–156).

The release of pollutants into streams from point and nonpoint sources have immediate impacts on water quality conditions and may make environments unsuitable for habitation by mussels. Early life stages of freshwater mussels are some of the most sensitive organisms of all species to ammonia and copper (Naimo 1995, pp. 351–352; Augspurger et al. 2007, p. 2025). Additionally, sublethal effects of contaminants over time can result in reduced feeding efficiency, reduced growth, decreased reproduction, changes in enzyme activity, and behavioral changes to all mussel life stages. Even wastewater discharges with low ammonia levels have been shown to negatively affect mussel populations.

Finally, water temperature plays a critical role in the life history of freshwater mussels. High water temperatures can cause valve closure, reduced reproductive output, and death. The central Texas mussels differ in their optimal temperature ranges, with some species much more tolerant of high temperatures than others. Laboratory studies investigating the effects of thermal stress on glochidia and adults has indicated thermal stress may occur at 29 °C (84.2 °F) (Bonner et al. 2018, pp. 123–146; Khan et al. 2019, entire).

Based on the above information, we determine that stream reaches with the following water quality parameters are suitable for the Guadalupe fatmucket, Texas fatmucket, Texas fawnsfoot, Guadalupe orb, Texas pimpleback, false spike, and Balcones spike:

- Low salinity (less than 2 ppt);
- Low total ammonia (less than 0.77 mg/L total ammonia nitrogen);
- Low levels of contaminants;
- Dissolved oxygen levels greater than 2 mg/L;
- Water temperatures below 29 °C (84.2 °F).

Sites for Development of Offspring

As discussed above, freshwater mussel larvae are parasites that must attach to a host fish to develop into juvenile mussels. The central Texas mussels use a variety of host fish, many of which are widely distributed throughout their ranges. The presence of these fish species, either singly or in combination, supports the life-history needs of the central Texas mussels:

- Balcones spike and false spike: blacktail shiner (*Cyprinella venusta*) and red shiner (*C. lutrensis*);

- Texas fawnsfoot: freshwater drum (*Aplodinotus grunniens*);
- Texas pimpleback and Guadalupe orb: channel catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis olivaris*), and tadpole madtom (*Noturus gyrinus*);
- Texas fatmucket and Guadalupe fatmucket: green sunfish (*Lepomis cyanellus*), bluegill (*L. macrochirus*), largemouth bass (*Micropterus salmoides*), and Guadalupe bass (*M. treculii*).

While the specific PBFs for each species may differ slightly (as specified in the regulatory text at the end of this rule), in summary, we have determined that the following PBFs are essential to the conservation of the central Texas mussels:

(1) Suitable substrates and connected instream habitats, characterized by geomorphically stable stream channels and banks (*i.e.*, channels that maintain lateral dimensions, longitudinal profiles, and sinuosity patterns over time without an aggrading or degrading bed elevation) with habitats that support a diversity of freshwater mussel and native fish (such as stable riffle-run-pool habitats that provide flow refuges consisting of silt-free gravel and coarse sand substrates).

(2) Adequate flows, or a hydrologic flow regime (which includes the severity, frequency, duration, and seasonality of discharge over time), necessary to maintain benthic habitats where the species are found and to maintain connectivity of streams with the floodplain, allowing the exchange of nutrients and sediment for maintenance of the mussels' and fish hosts' habitat, food availability, spawning habitat for native fishes, and the ability for newly transformed juveniles to settle and become established in their habitats.

(3) Water and sediment quality (including, but not limited to, dissolved oxygen levels greater than 2 mg/L, conductivity, hardness, turbidity, temperatures below 29 °C (84.2 °F), pH (low salinity, less than 2 ppt), low total ammonia (less than 0.77 mg/L total ammonia nitrogen), heavy metals, and chemical constituents) necessary to sustain natural physiological processes for normal behavior, growth, and viability of all life stages.

(4) The presence and abundance of fish hosts necessary for recruitment of the central Texas mussels.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain

features which are essential to the conservation of the species and which may require special management considerations or protection. The features essential to the conservation of the central Texas mussels may require special management considerations or protections to reduce the following threats: increased fine sediment, changes in water quality, altered hydrology from both inundation and flow loss/scour, predation and collection, and barriers to fish movement.

Management activities that could ameliorate these threats include, but are not limited to: Use of best management practices (BMPs) designed to reduce sedimentation, erosion, and bank side destruction; protection of riparian corridors and retention of sufficient canopy cover along banks; exclusion of livestock and nuisance wildlife (feral hogs, exotic ungulates); moderation of surface and groundwater withdrawals to maintain natural flow regimes; increased use of stormwater management and reduction of stormwater flows into the systems; use of highest water quality standards for wastewater and other return flows; and reduction of other watershed and floodplain disturbances that release sediments, pollutants, or nutrients into the water.

In summary, we find that the occupied areas we are designating as critical habitat contain the PBFs that are essential to the conservation of the species and that may require special management considerations or protection. Special management considerations or protection may be required of the Federal action agency to eliminate, or to reduce to negligible levels, the threats affecting the PBFs of each unit.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat.

We are designating critical habitat in areas within the geographical area occupied by the central Texas mussels at the time of listing. We also are designating specific areas outside the

geographical area occupied by the Texas fatmucket, Texas pimpleback, and Texas fawnsfoot at the time of listing because we have determined that those areas are essential for the conservation of these three species. The designated unoccupied subunits provide for the growth and expansion of the current species' ranges within portions of their historical ranges. Each of the unoccupied subunits constitute habitat for the species because they support life history requirements from the species, have the host fish, and expand the occupied reach length of a smaller population to a length that will be more resilient to stochastic events. For the Guadalupe fatmucket, Guadalupe orb, Balcones spike, and false spike, we are not designating any areas outside the geographical area occupied by the species because we have not identified any unoccupied areas that meet the definition of critical habitat.

The current distributions of all seven of the central Texas mussels are much reduced from their historical distributions. We anticipate that recovery will require continued protection of existing populations and habitat, as well as ensuring that there are adequate numbers of mussels in stable populations that occur over a wide geographic area. This strategy will help to ensure that catastrophic events, such as the effects of hurricanes (which can lead to flooding that causes excessive sedimentation, nutrients, and debris to disrupt stream ecology, etc.) and drought, cannot simultaneously affect all known populations. Rangewide recovery considerations, such as maintaining existing genetic diversity and striving for representation of all major portions of the species' current ranges, were considered in formulating this critical habitat designation.

Sources of data for this critical habitat designation include multiple databases maintained by universities and State agencies, scientific and agency reports, and numerous survey reports on streams throughout the species' ranges (see Service 2022, pp. 31–44, and 75–127).

In summary, for areas within the geographic area occupied by the species at the time of listing, we delineated critical habitat unit boundaries by evaluating habitat suitability of stream segments within the geographical area occupied at the time of listing and

retaining those segments that contain some or all of the PBFs to support life-history functions essential for conservation of the species.

As a final step, we evaluated those occupied stream segments retained through the above analysis and refined the starting and ending points by evaluating the presence or absence of appropriate PBFs. We selected upstream and downstream cutoff points to reference existing easily recognizable geopolitical features including confluences, highway crossings, and county lines. Using these features as end points allows the public to clearly understand the boundaries of critical habitat. Unless otherwise specified, any stream beds located directly beneath bridge crossings or other landmark features used to describe critical habitat spatially, such as stream confluences, are considered to be wholly included within the critical habitat unit. Critical habitat stream segments were then mapped using ArcMap version 10 (ESRI, Inc.), a Geographic Information Systems program.

We consider the following streams to be occupied by the Guadalupe fatmucket at the time of listing: Guadalupe River, North Fork Guadalupe River, and Johnson Creek (see Final Critical Habitat Designation, below).

We consider the following streams to be occupied by the Texas fatmucket at the time of listing: Bluff Creek, Lower Elm Creek, San Saba River, Cherokee Creek, North Llano River, South Llano River, Llano River, James River, Threadgill Creek, Beaver Creek, Pedernales River, Live Oak Creek, and Onion Creek (see Final Critical Habitat Designation, below).

We consider the following streams to be occupied by the Texas fawnsfoot at the time of listing: Upper Clear Fork of the Brazos River, Upper Brazos River, Lower San Saba River, and Upper Colorado River (see Final Critical Habitat Designation, below).

We consider the following streams to be occupied by the Guadalupe orb at the time of listing: Upper Guadalupe River, South Fork Guadalupe River, Lower Guadalupe River, and San Marcos River (see Final Critical Habitat Designation, below).

We consider the following streams to be occupied by the Texas pimpleback at the time of listing: Bluff Creek, Lower Elm Creek, Lower Concho River, Upper

Colorado River, Lower San Saba River, Upper San Saba River, and Upper Llano River (see Final Critical Habitat Designation, below).

We consider the following streams to be occupied by false spike at the time of listing: San Marcos River and Guadalupe River (see Final Critical Habitat Designation, below).

We consider the following streams to be occupied by Balcones spike at the time of listing: San Saba River and Llano River (see Final Critical Habitat Designation, below).

For areas outside the geographic area occupied by the species at the time of listing, we delineated critical habitat unit boundaries by evaluating habitat suitability of stream segments and retaining those segments that contain some or all of the PBFs to support life-history functions essential for the conservation of the species.

The unoccupied reaches we are designating for critical habitat designation are Upper Elm Creek for the Texas fatmucket (TXFM–1c); the Lower Clear Fork Brazos River for the Texas fawnsfoot (TXFF–1b); and the Upper Concho River and Lower Llano River for the Texas pimpleback (TXPB–2b and TXPB–5b, respectively) (see table 8, below). The longer the reach occupied by a species, the more likely it is that the population can withstand stochastic events such as extreme flooding, dewatering, or water contamination. These designated areas are located immediately adjacent to currently occupied stream reaches that are relatively short, ranging from 8.9 river mi (14.4 river km) to 27.9 river mi (45.0 river km), include one or more of the essential PBFs, and allow for expansion of existing populations as necessary to improve population resiliency, extend physiographic representation, and reduce the risk of extinction for the species. The establishment of additional moderately healthy to healthy populations across the range of these species would sufficiently reduce their risk of extinction. Improving the resiliency of populations in the currently occupied streams, and into identified unoccupied areas, will improve species viability; therefore, these unoccupied subunits are each essential for the conservation of the species.

When determining critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for the central Texas mussels. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, a Federal action involving these lands will not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action will affect the PBFs in the adjacent critical habitat.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of

this document under Regulation Promulgation. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on <https://www.regulations.gov> at Docket No. FWS-R2-ES-2019-0061, and on our internet site at <https://www.fws.gov/office/austin-ecological-services>.

Final Critical Habitat Designation

We are designating approximately 1,577.5 river mi (2,538.7 river km) in total, accounting for overlapping units, in 20 units (with a total of 32 subunits; see table 8 and map, below) as critical habitat for the central Texas mussel species: the Guadalupe fatmucket, Texas fatmucket, Texas fawnsfoot, Texas pimpleback, Guadalupe orb, Balcones spike, and false spike. All but four of the subunits are currently occupied by one or more of the species, and each of the 20 units contains the physical and

biological features essential to the conservation of each species. Each species historically occurred in a different subset of watersheds in central Texas; therefore, there are large differences in the amount of critical habitat designated for each species. Texas surface water is owned by the State, as are the beds of navigable streams; thus, the actual critical habitat units (occupied waters and streambeds up to the ordinary high-water mark) are owned by the State of Texas (Texas Water Code, sections 11.021 and 11.0235). Adjacent riparian areas are in most cases, privately owned, and are what is reported in the discussion that follows, although these adjacent riparian areas are not included in the critical habitat designation. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the seven central Texas mussel species. Table 8 shows the critical habitat units and the approximate area of each unit.

TABLE 8—FINAL DESIGNATED CRITICAL HABITAT FOR THE CENTRAL TEXAS MUSSELS

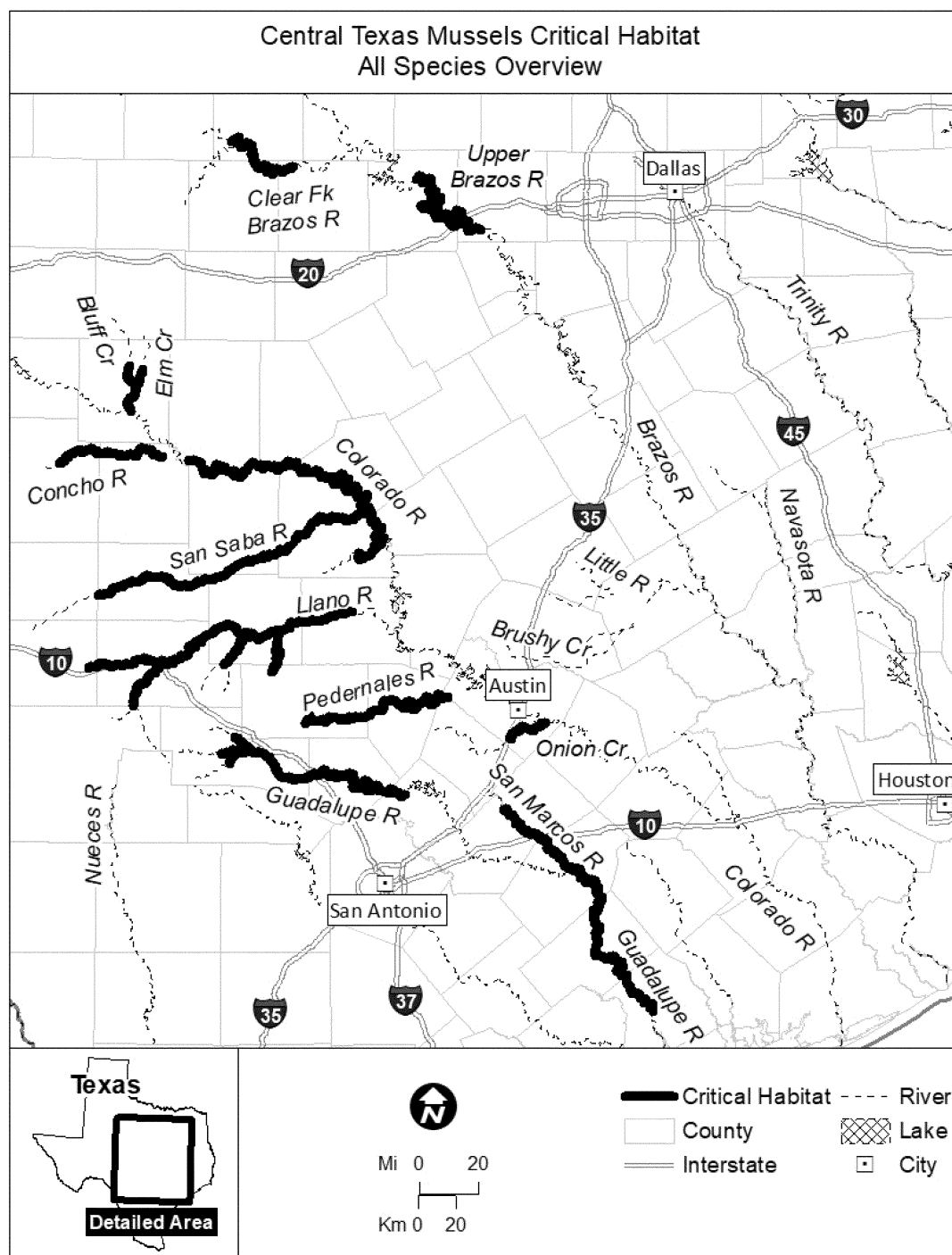
Species	Basin/unit name	Occupied	Designated critical habitat rmi (km)
Guadalupe fatmucket	<i>Guadalupe River:</i>	Yes	Total: 52.2 (84.0).
	GUFM-1a: North Fork Guadalupe River .....	.....	6.9 (11.0).
	GUFM-1b: Johnson Creek .....	.....	10.1 (16.3).
	GUFM-1c: Guadalupe River .....	.....	35.2 (56.7).
Texas fatmucket	<i>Colorado River:</i>	Yes	Total: 419.5 (675.2).
	TXFM-1a: Bluff Creek .....	.....	11.6 (18.7).
	TXFM-1b: Lower Elm Creek .....	.....	12.3 (19.8).
	TXFM-2: San Saba River .....	.....	90.8 (146.1).
	TXFM-3: Cherokee Creek .....	.....	17.8 (28.6).
	TXFM-4a: North Llano River .....	.....	30.2 (48.7).
	TXFM-4b: South Llano River .....	.....	22.5 (36.2).
	TXFM-4c: Llano River .....	.....	90.9 (146.4).
	TXFM-4d: James River .....	.....	18.3 (29.4).
	TXFM-4e: Threadgill Creek .....	.....	8.1 (13.1).
	TXFM-4f: Beaver Creek .....	.....	12.7 (20.5).
	TXFM-5a: Pedernales River .....	.....	78.2 (125.8).
	TXFM-5b: Live Oak Creek .....	.....	2.6 (4.2).
	TXFM-6: Onion Creek .....	.....	23.5 (37.8).
	<i>Colorado River:</i>	No	Total: 8.9 (14.4).
	TXFM-1c: Upper Elm Creek .....	.....	8.9 (14.4).
Texas fawnsfoot	<i>Brazos River:</i>	Yes	Total: 105.3 (169.5).
	TXFF-1a: Upper Clear Fork Brazos River .....	.....	27.3 (44.0).
	TXFF-2: Upper Brazos River .....	.....	78.0 (125.5).
	<i>Brazos River:</i>	No	Total: 27.9 (45.0).
	TXFF-1b: Lower Clear Fork Brazos River .....	.....	27.9 (45.0).
	<i>Colorado River:</i>	Yes	Total: 59.5 (95.7).
	TXFF-5a: Lower San Saba River .....	.....	49.2 (79.1).
	TXFF-5b: Upper Colorado River .....	.....	10.3 (16.6).
Guadalupe orb	<i>Guadalupe River:</i>	Yes	Total: 288.5 (464.3).
	GORB-1a: South Fork Guadalupe River .....	.....	5.1 (8.2).
	GORB-1b: Upper Guadalupe River .....	.....	97.1 (156.3).
	GORB-2a: San Marcos River .....	.....	63.9 (102.8).
	GORB-2b: Lower Guadalupe River .....	.....	122.4 (197.0).
Texas pimpleback	<i>Colorado River:</i>	Yes	Total: 346.7 (558.0).
	TXPB-1a: Bluff Creek .....	.....	11.6 (18.7).
	TXPB-1b: Lower Elm Creek .....	.....	12.3 (19.8).
	TXPB-2a: Lower Concho River .....	.....	34.6 (55.7).
	TXPB-3a: Upper Colorado River .....	.....	150.4 (242.1).
	TXPB-3b: Lower San Saba River .....	.....	49.2 (79.1).

TABLE 8—FINAL DESIGNATED CRITICAL HABITAT FOR THE CENTRAL TEXAS MUSSELS—Continued

Species	Basin/unit name	Occupied	Designated critical habitat rmi (km)
False spike	TXPB-4: Upper San Saba River .....	.....	51.4 (82.7).
	TXPB-5a: Upper Llano River .....	.....	37.2 (59.9).
	Colorado River:	No	Total: 27.3 (44.0).
	TXPB-2b: Upper Concho River .....	.....	15.5 (25.0).
	TXPB-5b: Lower Llano River .....	.....	11.8 (19.1).
	Guadalupe River:	Yes	Total: 143.6 (231.0).
	FASP-1a: San Marcos River .....	.....	21.2 (34.0).
	FASP-1b: Guadalupe River .....	.....	122.4 (197.0).
	Colorado River:	Yes	Total: 98.1 (157.9).
	BASP-2: San Saba River .....	.....	49.1 (79.0).
Balcones spike	BASP-3: Llano River .....	.....	49.0 (78.9).

Note: Stream lengths will not sum due to overlapping units, and due to rounding, kilometers (km) may not sum to total.

Map of Final Designated Critical Habitat for the Central Texas Mussels



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We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for each of the listed species, below.

Guadalupe Fatmucket

We are designating approximately 52.2 river mi (84.0 river km) in a single unit, consisting of three subunits, as critical habitat for the Guadalupe fatmucket. The critical habitat areas we describe below constitute our current

best assessment of areas that meet the definition of critical habitat for the Guadalupe fatmucket. The unit we have designated as critical habitat is GUFM-1: Guadalupe River Unit. Table 9 shows the occupancy of the unit, the ownership of adjacent riparian lands, and approximate length of the

designated areas for the Guadalupe fatmucket.

TABLE 9—DESIGNATED CRITICAL HABITAT UNITS FOR THE GUADALUPE FATMUCKET

Unit	Subunit	Adjacent riparian ownership	Occupancy	River miles (kilometers)
GUFM-1: Guadalupe River	GUFM-1a: North Fork Guadalupe River	Private	Occupied	6.9 (11.0)
	GUFM-1b: Johnson Creek	Private	Occupied	10.1 (16.3)
	GUFM-1c: Guadalupe River	Private	Occupied	32.9 (53.0)
		State/Local	Occupied	2.3 (3.7)
Total .....	.....	.....	.....	52.2 (84.0)

Note: Lengths may not sum due to rounding.

We present a brief description of the unit, and reasons why it meets the definition of critical habitat for Guadalupe fatmucket, below.

Unit GUFM-1: Guadalupe River

Subunit GUFM-1a: North Fork Guadalupe River. The North Fork Guadalupe River subunit consists of 6.9 river mi (11.0 river km) in Kerr County, Texas. The adjacent riparian areas of the subunit are privately owned. The entire subunit is currently occupied by the species. The North Fork Guadalupe River subunit extends from the Farm-to-Market (FM) 1340 bridge crossing (just upstream of the Bear Creek Boy Scout camp) downstream to the confluence with the Guadalupe River. This subunit contains all of the PBFs essential to the conservation of the Guadalupe fatmucket. The North Fork Guadalupe River subunit is in a mostly rural setting; is influenced by drought, low flows, and flooding (leading to scour); and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions. Therefore, special management may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. Special management considerations may be necessary to ensure adequate instream flow and water quality.

Subunit GUFM-1b: Johnson Creek. The Johnson Creek subunit consists of 10.1 river mi (16.3 river km) within Kerr County, Texas. The Johnson Creek subunit begins at the Byas Springs Road

crossing downstream to the confluence with the Guadalupe River. The adjacent riparian area is privately owned. The subunit is occupied by the Guadalupe fatmucket. This site contains all of the PBFs essential to the conservation of the species, although certain PBFs, such as sufficient water flow and water quality (e.g., dissolved oxygen levels and water temperature) may be degraded during times of drought. The Johnson Creek subunit is in a mostly rural but urbanizing setting; is influenced by drought, low flows, and flooding (leading to scour); and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity.

Subunit GUFM-1c: Guadalupe River. This unit consists of approximately 35.2 river mi (56.7 river km) in Kendall and Kerr Counties, Texas. The Guadalupe River subunit extends from the confluence of the North and South Fork Guadalupe Rivers downstream to the Interstate Highway 10 bridge crossing near Comfort, Texas. Ownership of adjacent riparian areas is approximately 93 percent private and 7 percent State/local government. The subunit is occupied by the Guadalupe fatmucket. This portion of the Guadalupe River Basin is largely agricultural with several municipalities and multiple low-head dams originally built for a variety of

purposes and is now largely used for recreation (kayaking, fishing, camping, swimming, etc.). This subunit contains all of the PBFs essential to the conservation of the species. The Guadalupe River subunit is experiencing some urbanization; is influenced by drought, low flows, and flooding (leading to scour); and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by Guadalupe orb.

Texas Fatmucket

We are designating approximately 419.5 river mi (675.2 km) in 6 units, including 11 subunits, as critical habitat for Texas fatmucket. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the Texas fatmucket. The six areas we are designating as critical habitat are: TXFM-1: Elm Creek Unit; TXFM-2: San Saba River Unit; TXFM-3: Cherokee Creek Unit; TXFM-4: Llano River Unit; TXFM-5: Pedernales River Unit; and TXFM-6: Onion Creek Unit. Table 10 shows the occupancy of the units, the ownership of adjacent riparian lands, and approximate length of the designated areas for the Texas fatmucket.

TABLE 10—DESIGNATED CRITICAL HABITAT UNITS FOR TEXAS FATMUCKET

Unit	Subunit	Adjacent riparian ownership	Occupancy	River miles (kilometers)
TXFM-1: Elm Creek	TXFM-1a: Bluff Creek	Private	Occupied	11.6 (18.7)
	TXFM-1b: Lower Elm Creek	Private	Occupied	11.9 (19.2)
		State/Local .....	.....	0.4 (0.6)
	TXFM-1c: Upper Elm Creek	Private	Unoccupied	8.9 (14.4)

TABLE 10—DESIGNATED CRITICAL HABITAT UNITS FOR TEXAS FATMUCKET—Continued

Unit	Subunit	Adjacent riparian ownership	Occupancy	River miles (kilometers)
TXFM-2: San Saba River .....	.....	Private	Occupied	90.8 (146.1)
TXFM-3: Cherokee Creek .....	.....	Private	Occupied	17.8 (28.6)
TXFM-4: Llano River	TXFM-4a: North Llano River	Private	Occupied	30.2 (48.7)
	TXFM-4b: South Llano River	Private	Occupied	20.2 (32.5)
		State		2.3 (3.7)
	TXFM-4c: Llano River	Private	Occupied	90.4 (145.6)
		State/Local		0.5 (0.8)
	TXFM-4d: James River	Private	Occupied	18.3 (29.4)
	TXFM-4e: Threadgill Creek	Private	Occupied	8.1 (13.1)
	TXFM-4f: Beaver Creek	Private	Occupied	12.7 (20.5)
TXFM-5: Pedernales River	TXFM-5a: Pedernales River	Private	Occupied	68.9 (110.9)
		State/Local		6.8 (10.9)
		Federal		2.5 (4.0)
	TXFM-5b: Live Oak Creek	Private	Occupied	1.2 (2.0)
		State/Local		1.4 (2.2)
TXFM-6: Onion Creek .....	.....	Private	Occupied	10.3 (16.6)
		State/Local		13.2 (21.2)
Total .....	.....	.....	.....	428.4 (689.4)

Note: Lengths may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for Texas fatmucket, below.

Unit TXFM-1: Elm Creek

Subunit TXFM-1a: Bluff Creek. This occupied critical habitat subunit consists of 11.6 river mi (18.7 km) of Bluff Creek, a tributary to Elm Creek, in Runnels County, Texas. The subunit extends from the County Road 153 bridge crossing, near the town of Winters, Texas, downstream to the confluence of Bluff and Elm creeks. The adjacent riparian area of this subunit is privately owned. This subunit is currently occupied by the Texas fatmucket. This subunit contains all of the PBFs, although suitable substrate, stream flow, and water quality are degraded. The Bluff Creek subunit is in a rural setting; is influenced by drought, low flows, and elevated chlorides; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the Texas pimpleback.

Subunit TXFM-1b: Lower Elm Creek. This subunit consists of 12.3 river mi (19.8 km) of Elm Creek beginning at the confluence of Bluff Creek and continuing downstream to Elm Creek's confluence with the Colorado River in Runnels County, Texas. Ownership of

adjacent riparian areas is approximately 97 percent private and 3 percent State/local government. The Elm Creek watershed is relatively small and remains largely rural and dominated by agricultural practices. This stream regularly has extremely low or no flow during times of drought. Moreover, this stream has degraded quality, in the form of elevated chloride concentrations and sedimentation, resulting in reduced habitat quality and availability. Lower Elm Creek is occupied by the Texas fatmucket and contains at least one of the PBFs essential to the conservation of the species: the presence of host fish. Other PBFs are present in the subunit but are in degraded condition and would benefit from management actions such as improving water quality and substrate. The Lower Elm Creek subunit is influenced by drought, low flows, and elevated chlorides, and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the Texas pimpleback.

Subunit TXFM-1c: Upper Elm Creek. Upper Elm Creek is not currently occupied by the Texas fatmucket, but is essential for the conservation of the species. This subunit consists of 8.9 river mi (14.4 km) from the County Road 153 crossing, south of Lake Winters, downstream to the confluence of Bluff

and Elm creeks. Adjacent riparian area is privately owned. The entire Elm Creek watershed is dominated by agriculture and remains rural. Upper Elm Creek is essential for the conservation of the species because it provides for the growth and expansion of the Texas fatmucket within a portion of its historical range on Elm Creek; the occupied Lower Elm Creek Subunit is too small to ensure conservation of the Texas fatmucket over the long term. This subunit is important to the conservation of the Texas fatmucket because it is the farthest upstream population, and its loss would shrink the overall range of the Texas fatmucket to the lower, larger tributaries of the Colorado River. Additionally, this population of Texas fatmucket is substantially far from the other population of the species, such that if a catastrophic event such as drought or extreme flooding were to occur, it is likely that this population would be affected differently, increasing the chance of the species surviving such an event.

The Upper Elm Creek subunit is in a rural setting; is influenced by drought, low flows, and elevated chlorides; and is being affected by ongoing agricultural activities. Although it is considered unoccupied, portions of this subunit contain some or all of the PBFs essential for the conservation of the species. As previously mentioned, flow rates in this subunit are typically not within the range required by the Texas fatmucket. This subunit is often characterized by small, isolated pools separated by short riffles over bedrock during low flow and when dam releases are minimal.

Suitable stream habitat and hydrological connectivity are unsupported throughout the entirety of this subunit but do occur in portions of the delineated unit. Specifically, low flows during times of drought punctuated by high flows are either scouring the stream habitat, or depositing stream sediments downstream. Because mussels are sedentary organisms, transportation of individuals during flooding events is often lethal.

The Texas fatmucket uses predatory fish (e.g., bass and sunfishes) for its host infestation period of its lifecycle. These host fishes are estimated to be common throughout the State of Texas and within the Upper Elm Creek subunit.

This subunit is not included in TCEQ classified stream segments; therefore, we have no specific water quality information for this area. During times of normal flow, this subunit likely supports healthy water quality parameters for the Texas fatmucket, but water quality is likely compromised during low flows, when water temperatures rise and dissolved oxygen drops. The Upper Elm Creek subunit will require additional management practices to ensure sufficient water quality standards are being met and maintained for the Texas fatmucket. Because this reach of Elm Creek periodically contains the flowing water conditions and host fish species used by the Texas fatmucket, it is habitat for Texas fatmucket.

If the Texas fatmucket can be reestablished in this reach, it will expand the occupied reach in Elm Creek to a length that will be more resilient to the stressors that the species is facing. The longer the reach occupied by a species, the more likely it is that the population can withstand stochastic events such as extreme flooding, dewatering, or water contamination. In the SSA report, we identified 50 miles (80 km) as a reach long enough for a population to be able to withstand stochastic events, and the addition of this 8.9-mile reach, as well as the adjacent tributary of Bluff Creek, will extend to closer to 50 miles the existing Texas fatmucket population downstream in Lower Elm Creek and in Bluff Creek. The addition of multiple tributaries increases the value of the overall critical habitat unit, providing protection for the population should a stochastic event occur in one tributary. If Texas fatmucket were to become reestablished throughout this unit, it would likely be a moderately to highly resilient population due to longer stream length and would increase the species' future viability. This

unoccupied unit is essential for the conservation of the species because it provides habitat for range expansion in portions of known historical habitat and is necessary to increase viability of the species by increasing population resiliency.

Unit TXFM-2: San Saba River

This unit consists of 90.8 river mi (146.1 km) of the San Saba River in Mason, McCulloch, Menard, and San Saba Counties, Texas. This unit of the San Saba River extends from the Schleicher and Menard County line, near Fort McKavett, Texas, downstream to the San Saba River confluence with the Colorado River. The adjacent riparian areas are privately owned. This basin is largely rural and is dominated by mostly agricultural activities including cattle grazing, hay farming, and pecan farming. During the summer, this unit is affected by very low flows, which are exacerbated by pumping, and drought. This unit contains all of the PBFs essential to the conservation of the Texas fatmucket and is currently occupied by the species. The San Saba River unit is influenced by drought; low flows; underlying geology resulting in a losing reach; and ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and collection. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, improve habitat connectivity, and manage collection. Special management may be necessary to ensure adequate flow and prevent water quality degradation. This unit is also occupied by the Texas fawnsfoot, Texas pimpleback, and Balcones spike.

Unit TXFM-3: Cherokee Creek

This unit consists of 17.8 river mi (28.6 km) of Cherokee Creek in San Saba County, Texas. The adjacent riparian areas are privately owned. The Cherokee Creek unit extends from the County Road 409 bridge crossing downstream to the confluence with the Colorado River. This unit is occupied by the Texas fatmucket and contains all of the PBFs essential to the conservation of the species. Even though this unit is smaller than 50 miles, which we had determined was the reach length long enough to withstand stochastic events, this population increases the species' redundancy, making it more likely to withstand catastrophic events that may eliminate one or more of the other populations. The Cherokee Creek unit is in a rural setting; is influenced by

drought and low flows; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. Special management may be necessary to limit the effect of low flow and drought conditions.

Unit TXFM-4: Llano River

Subunit TXFM-4a: North Llano River.

This subunit consists of 30.2 river mi (48.7 km) in Sutton and Kimble Counties, Texas. The North Llano River subunit extends from the most upstream County Road 307 bridge crossing in Sutton County downstream for 30.2 river mi (48.7 river km) into Kimble County at the confluence with the South Llano River near the city of Junction, Texas. The North Llano River is occupied by the Texas fatmucket and contains all of the PBFs essential to the conservation of the species. Riparian areas adjacent to this subunit are privately owned and largely dominated by rural agricultural operations. This subunit is not heavily influenced by spring inputs like some other tributaries to the Llano River, such as the South Llano River. During summertime low flows and extended periods of drought, this subunit often becomes a series of isolated pools separated by shallow flowing riffles over bedrock. These reduced flows can leave mussels stranded and desiccated in dry beds or isolated in shallow pools. Decreased flows can also result in decreased water quality, specifically in the form of reduced dissolved oxygen and increased temperature. Special management considerations may be necessary to address ongoing concerns of low flows and subsequent water quality degradation.

Subunit TXFM-4b: South Llano River.

The South Llano River subunit extends from the Edwards and Kimble County line downstream 22.5 river mi (36.2 river km) to the confluence with the North Llano River in Kimble County, Texas. Ownership of adjacent riparian areas is 90 percent private and 10 percent State. Major activities in this basin are farming, ranching, and other agricultural uses, as the watershed remains largely rural. The South Llano River subunit is occupied by the Texas fatmucket and contains all of the PBFs essential to the conservation of the species. The South Llano River subunit is influenced by flooding (leading to

scour), drought, and low flows, and this subunit is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. Special management may be required to address episodic low flows during summer drought and associated with reduced spring flow.

Subunit TXFM-4c: Llano River. This subunit consists of 90.9 river mi (146.4 river km) in Kimble, Mason, and Llano Counties, Texas. The Llano River subunit begins at the confluence of the North and South Fork Llano River and continues downstream to the State Highway 16 bridge crossing in Llano County. Ownership of adjacent riparian areas is 99.5 percent private and 0.5 percent State/local government, and the watershed remains largely rural. The Llano River subunit is occupied by the Texas fatmucket and contains all of the PBFs essential to the conservation of the species. The Llano River subunit is in a rural setting; is influenced by flooding (leading to scour), drought, and low flows; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the Texas pimpleback and Balcones spike.

Subunit TXFM-4d: James River. The James River subunit consists of 18.3 river mi (29.4 river km) of the James River in Kimble and Mason Counties, Texas. The subunit begins at the Kimble and Mason County line and continues downstream to the Llano River confluence. Adjacent riparian areas are privately owned. The James River subunit is occupied by the Texas fatmucket and contains all of the PBFs essential to the conservation of the species. The James River subunit is in a rural setting; is influenced by flooding (leading to scour), drought, and low flows; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain

adequate flows, and improve habitat connectivity.

Subunit TXFM-4e: Threadgill Creek. The Threadgill Creek subunit consists of 8.1 river mi (13.1 river km) extending from the Ranch Road 783 bridge crossing downstream to the confluence with Beaver Creek in Gillespie and Mason Counties, Texas. Riparian lands adjacent to this subunit are privately owned. Threadgill Creek is occupied by the Texas fatmucket and contains all of the PBFs essential to the conservation of the species. The Threadgill Creek subunit is in a rural setting; is influenced by flooding (leading to scour), drought, and low flows; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity.

Subunit TXFM-4f: Beaver Creek. The Beaver Creek Subunit consists of 12.7 river mi (20.5 river km) and begins at the confluence with Threadgill Creek and continues downstream to the confluence with the Llano River in Mason County, Texas. Adjacent riparian habitats are privately owned. This subunit contains all of the PBFs essential to the conservation of the Texas fatmucket. The Beaver Creek subunit is in a rural setting; is influenced by flooding (leading to scour), drought, and low flows; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity.

This subunit is connected to known populations of the Texas fatmucket in subunits TXFM-4c and TXFM-4e, but there are no recent surveys of Beaver Creek itself. There are no instream structures in subunits TXFM-4c and TXFM-4e that would impede water flow; the flow regime is the same as in those subunits; and the host fish may move between the subunits freely. Based on this information, it is reasonable to conclude that the populations in subunits TXFM-4c and TXFM-4e are unlikely to stop at the most upstream or downstream survey location; therefore, we conclude that this subunit is occupied.

However, due to the lack of recent surveys, we are analyzing this subunit against the second prong of the definition of critical habitat for unoccupied habitat out of an abundance of caution. If subunit TXFM-4f is not, in fact, occupied, it is essential for the conservation of the species because it provides for needed growth and expansion of the species in this portion of its historical range and connectivity between documented occupied reaches. Connecting occupied reaches increases the resiliency of the occupied reaches by allowing for gene flow and repopulation after stochastic events. The longer the occupied reach, the more likely it is that the Texas fatmucket population can rebound after stochastic events such as extreme flooding, dewatering, or water contamination. This unoccupied unit is essential for the conservation of the species because it contains all of the PBFs, provides habitat for range expansion in portions of known historical habitat, and is necessary to increase viability of the species by increasing population resiliency.

Unit TXFM-5: Pedernales River

Subunit TXFM-5a: Pedernales River. The Pedernales River subunit consists of 78.2 river mi (125.8 river km) in Blanco, Gillespie, Hays, and Travis Counties, Texas. The Pedernales River subunit extends from the origination of the Pedernales River at the confluence of Bear and Wolf creeks in Gillespie County downstream to the FM 3238 (Hamilton Pool Road) bridge crossing in Travis County. Ownership of adjacent riparian areas is 87 percent private, 10 percent State/local government, and 3 percent Federal; 2.5 river mi (4.0 river km) are within Lyndon B. Johnson National Historical Park, which is owned and managed by the National Park Service (NPS) in Gillespie County, Texas. The subunit is currently occupied by the Texas fatmucket and supports all of the PBFs essential to the conservation of the species. The watershed of the Pedernales River is characterized by agricultural uses, including irrigated orchards and vineyards. Excess nutrients, sediment, and pollutants enter the Pedernales River from wastewater, agricultural runoff, and urban stormwater runoff, all of which reduces instream water quality. The Pedernales River geology, like many central Texas rivers, is predominately limestone outcroppings; therefore, this system is subject to flashy, episodic flooding during rain events that mobilize large amounts of sediment and wood materials. Special management considerations may be

necessary in this subunit to address low water levels as a result of water withdrawals and drought. Additionally, implementation of the highest levels of treatment of wastewater practicable would improve water quality in this subunit, and maintenance of riparian habitat and upland buffers would maintain or improve substrate quality.

Subunit TXFM-5b: Live Oak Creek. The Live Oak Creek subunit consists of 2.6 river mi (4.2 river km) in Gillespie County, Texas. Ownership of adjacent riparian areas is approximately 46 percent private and 54 percent State/local government. The Live Oak Creek subunit originates at the FM 2093 bridge crossing downstream to its confluence with the Pedernales River. This subunit is currently occupied by the Texas fatmucket and contains all of the PBFs essential to the conservation of the species. The Live Oak Creek subunit is in a mostly rural setting with some urbanization; is influenced by drought, low flows, and flooding (leading to scour); and is being affected by ongoing development and agricultural activities resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity.

Unit TXFM-6: Onion Creek (Previously TXFM-6a: Lower Onion Creek)

The Onion Creek unit consists of 23.5 river mi (37.8 river km) in Travis County, Texas. This unit combines the

proposed Lower Onion Creek (TXFM-6a) subunit and the proposed Upper Onion Creek (TXFM-6b) subunit. We consolidated these proposed subunits into one unit (TXFM-6) due to recent survey data confirming that Texas fatmucket inhabit Upper Onion Creek, which had been thought to be unoccupied.

Unit TXFM-6 begins at the Interstate Highway 35 bridge crossing downstream to the confluence with the Colorado River. The upper portion of this unit is in a rural but urbanizing setting and is influenced by drought, low flows, and flooding (leading to scour). Ownership of adjacent riparian areas is approximately 44 percent private and 56 percent State/local government. The lower portion of this unit is in close proximity to the rapidly urbanizing city of Austin, Texas, and contains substantial municipal developments. The effects of such rapid and widespread urbanization have contributed to significantly altered flows in Onion Creek that have led to bank destabilization, increased sedimentation and streambed mobilization, and loss of stable substrate. Further, urban runoff pollutants are responsible for degraded water quality conditions. Even though this unit is smaller than 50 miles, which we had determined was the reach length long enough to withstand stochastic events, the population increases the species' redundancy, making it more likely to withstand catastrophic events that may eliminate one or more of the other populations. Further, it is the easternmost population of the Texas fatmucket, which expands the species'

overall distribution. The Onion Creek unit is occupied by the Texas fatmucket and contains most of the PBFs essential to the conservation of Texas fatmucket. Several PBFs, such as water quality, sufficient flow rates, and suitable substrate, are present in the lower portions of the unit and at times of low flow may be either missing or minimally acceptable for the species in the upper portions of the unit. Suitable host fishes are believed to occur throughout the unit. Special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity.

Texas Fawnsfoot

We are designating approximately 192.7 river mi (310.2 river km) in three units (including four subunits) as critical habitat for the Texas fawnsfoot. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the Texas fawnsfoot. The three areas we designate as critical habitat are: TXFF-1: Clear Fork Brazos River Unit; TXFF-2: Upper Brazos River Unit; and TXFF-5: Lower San Saba and Upper Colorado River Unit. We are excluding units TXFF-3: Lower Brazos River; TXFF-4: Little River; TSFF-6: Lower Colorado River; TXFF-7: East Fork of the Trinity River; and TXFF-8: Trinity River (see Summary of Exclusion, below). Table 11 shows the occupancy of the units, the ownership of adjacent riparian lands, and approximate length of the designated areas for the Texas fawnsfoot.

TABLE 11—DESIGNATED CRITICAL HABITAT UNITS FOR THE TEXAS FAWNSFOOT (Truncilla macrodon)

Unit	Subunit	Adjacent riparian ownership	Occupancy	River miles (kilometers)
TXFF-1: Clear Fork Brazos River	TXFF-1a: Upper Clear Fork Brazos River	Private	Occupied	27.3 (44.0)
	TXFF-1b: Lower Clear Fork Brazos River	Private	Unoccupied	27.5 (44.3)
		State/Local		0.4 (0.7)
TXFF-2: Upper Brazos River		Private	Occupied	78.0 (125.5)
TXFF-5: Lower San Saba and Upper Colorado River.	TXFF-5a. Lower San Saba River	Private	Occupied	48.6 (78.1)
		State/Local		0.6 (1.0)
	TXFF-5b. Upper Colorado River	Private	Occupied	10.3 (16.6)
Total				192.7 (310.2)

Note: Lengths may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for Texas fawnsfoot, below.

Unit TXFF-1: Clear Fork of the Brazos River

Subunit TXFF-1a: Upper Clear Fork of the Brazos River. The Upper Clear Fork of the Brazos River subunit consists of approximately 27.3 river mi (44.0 river km) in Shackelford and

Throckmorton Counties, Texas. The subunit begins at the confluence of Paint Creek and extends downstream to the U.S. Highway 283 bridge, near Fort Griffin, Texas. Adjacent riparian lands are privately owned. This subunit is occupied by the Texas fawnsfoot and

contains several of the PBFs essential to the conservation of the species, such as appropriate fish hosts and appropriate flows during portions of the year. Largely due to ongoing low-flow conditions from summertime drought and continued pressure on already strained water resources for municipal and agricultural uses, the Upper Clear Fork of the Brazos River does not consistently have sufficient flow and water quality is often inadequate for the Texas fawnsfoot in this subunit. Special management considerations may be necessary to address the threats in this unit by maintaining adequate flows and improving habitat connectivity.

Subunit TXFF-1b: Lower Clear Fork of the Brazos River. Lower Clear Fork is not currently occupied by the Texas fawnsfoot, but is essential for the conservation of the species. The Lower Clear Fork of the Brazos River subunit consists of 27.9 river mi (45.0 river km) in Shackelford and Stephens Counties, Texas. This subunit begins at the U.S. Highway 283 bridge and continues downstream to the U.S. Highway 183 bridge in Stephens County, Texas. Ownership of adjacent riparian areas is approximately 99 percent private and 1 percent State/local government.

This unit is essential to the conservation of the Texas fawnsfoot because it would expand the most northern population and increase the distribution of Texas fawnsfoot outside of mainstem, higher order streams. Additionally, this population of Texas fawnsfoot is geographically distant from the other populations of the species, such that if a catastrophic event were to occur within the range of the Texas fawnsfoot, such as extreme flooding or drought, it is likely that this population would not be affected in the same way, increasing the chance of the species surviving such an event. The Lower Clear Fork Brazos River subunit is in a rural setting; is influenced by drought, low flows, and chlorides; and is being affected by ongoing agricultural activities and development, resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs.

Although it is considered unoccupied, portions of this subunit contain some or all of the PBFs essential for the conservation of the species. Flowing water at rates needed by the Texas fawnsfoot are present in the subunit but may not be adequate in this subunit throughout portions of the year due to low precipitation, surface diversions, and groundwater withdrawals. In the SSA report, we noted that the Lower Clear Fork of the Brazos River

experienced both the lowest flow rate (0 cfs) during the 2011 drought and the highest flow rate (approaching 4,000 cfs) during the 2015 floods (Service 2022, p. 59). This altered hydrological regime also degrades stream habitat by either scouring out available substrate or depositing large amounts of sediment on top of otherwise suitable areas. Appropriate substrates are found only in isolated reaches. Management actions that allow for improvement of degraded habitat areas within this subunit would allow Texas fawnsfoot populations to expand and increase the subunit's resiliency.

The freshwater drum, the Texas fawnsfoot's host fish, is expected to be present in the Lower Clear Fork of the Brazos River. Thus, management actions may be necessary to ensure appropriate populations of host fish are co-occurring with Texas fawnsfoot.

Water quality may not be sufficient in the Lower Clear Fork of the Brazos River. Elevated chloride levels from naturally occurring underground salt formations are exacerbated by reduced water flow. In order for Texas fawnsfoot populations to expand and occupy the Lower Clear Fork of the Brazos River subunit, management actions may be necessary to reduce chloride levels. Because this reach of the Clear Fork Brazos River periodically contains the flowing water conditions and host fish species used by Texas fawnsfoot, it is habitat for the Texas fawnsfoot.

If the Texas fawnsfoot can be reestablished in this reach, it will expand the occupied reach length in the Clear Fork Brazos River to a length that will be more resilient to the stressors that the species is experiencing. The longer the reach occupied by a species, the more likely it is that the population can withstand stochastic events such as extreme flooding, dewatering, or water contamination. In the SSA report, we identified 50 miles (80 km) as a reach long enough for a population to be able to withstand stochastic events, and the addition of this 27.9-mile reach to the 27.3-mile occupied section of the Clear Fork Brazos River (subunit TXFF-1a) expands the existing Texas fawnsfoot population in the Clear Fork Brazos River to 55.2 miles, achieving a length that allows for a highly resilient population to be reestablished, increasing the species' future viability. This unit is essential for the conservation of the species because it provides habitat for range expansion in portions of known historical habitat, which is necessary to increase viability of the species.

Unit TXFF-2: Upper Brazos River

The Upper Brazos River Unit consists of approximately 78.0 river mi (125.5 river km) of the Brazos River in Palo Pinto and Parker Counties, Texas. The Upper Brazos River Unit extends from the FM 4 bridge crossing in Palo Pinto County, Texas, downstream to the FM 1189 bridge in Parker County, Texas. The unit is currently occupied by the species, and adjacent riparian lands are privately owned. This unit currently supports some of the PBFs essential to the conservation of Texas fawnsfoot, such as presence of appropriate fish hosts and suitable flow conditions during portions of the year (but flow conditions become unsuitable during times of drought). The PBFs of water quality and sufficient flow are present but degraded in this unit, as excessive chloride concentrations and persistent low flows diminish habitat quality in this unit. Elevated chloride concentrations in this portion of central Texas are often a result of natural causes, such as saline water inputs from spring releases flowing through subterranean salt deposits. However, while the Texas fawnsfoot may be able to tolerate some minor increases in salinity, low flow rates in this unit exacerbate the concentrations of chlorides.

The Upper Brazos River Unit is in a rural setting with some urbanization; is influenced by drought, low flows, chlorides, and reservoir operations; and is being affected by mining (rock, sand, and gravel), ongoing agricultural activities, and development, which result in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity.

Unit TXFF-5: Lower San Saba River and Upper Colorado River

Subunit TXFF-5a: Lower San Saba River. The Lower San Saba River subunit consists of approximately 49.2 river mi (79.1 river km) in San Saba County, Texas. This subunit begins at the Brady Creek confluence and extends to the Colorado River confluence. Ownership of adjacent riparian areas is approximately 99 percent private and 1 percent State/local government, and these areas are primarily in agricultural use. The river experiences periods of low flow due to drought and water withdrawals, and water withdrawals are expected to increase in the future. The

subunit is occupied by the Texas fawnsfoot and contains all of the PBFs essential to the conservation of the species. The Lower San Saba River subunit is experiencing some urbanization and is influenced by drought, low flows, and wastewater discharges. The watershed is being affected by ongoing agricultural activities and development, resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the Texas pimpleback and Balcones spike.

Subunit TXFF-5b: Upper Colorado River. The Upper Colorado River subunit consists of 10.3 river mi (16.6 river km) of the Colorado River near its confluence with the San Saba River in

Lampasas, Mills, and San Saba Counties, Texas. This subunit extends from the County Road 124 bridge and continues downstream to the U.S. Highway 190 bridge. Activities in the watershed are mostly agricultural. The river experiences periodic low flows from drought and upstream water withdrawals. The average daily flow rate of the upper Colorado River in this segment has been declining since the early 1920s. This subunit is currently occupied, and adjacent riparian lands are privately owned. All of the PBFs essential to the conservation of Texas fawnsfoot are present in this subunit, with the exception of appropriate flows throughout the year.

The Upper Colorado River subunit is influenced by reservoir operations and chlorides and is being affected by ongoing agricultural activities and development, resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and

wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the Texas pimpleback.

Guadalupe Orb

We are designating approximately 288.5 river mi (464.3 river km) in two units, consisting of four subunits, as critical habitat for the Guadalupe orb. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for Guadalupe orb. The two areas we are designating as critical habitat are: GORB-1: Upper Guadalupe River Unit and GORB-2: Lower Guadalupe River Unit. Table 12 shows the occupancy of the units, the ownership of adjacent riparian lands, and approximate length of the designated areas for the Guadalupe orb.

TABLE 12—DESIGNATED CRITICAL HABITAT UNITS FOR THE GUADALUPE ORB

Unit	Subunit	Adjacent riparian ownership	Occupancy	River miles (Kilometers)
GORB-1: Upper Guadalupe River	GORB-1a: South Fork Guadalupe River	Private	Occupied	5.1 (8.2)
	GORB-1b: Upper Guadalupe River	Private	Occupied	91.3 (147.0)
		State/Local		5.8 (9.3)
GORB-2: Lower Guadalupe River	GORB-2a: San Marcos River	Private	Occupied	60.2 (96.9)
		State/Local		3.7 (5.9)
	GORB-2b: Lower Guadalupe River	Private	Occupied	116.7 (187.8)
		State/Local		5.7 (9.2)
Total				288.5 (464.3)

Note: Lengths may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for Guadalupe orb, below.

Unit GORB-1: Upper Guadalupe River

Subunit GORB-1a: South Fork Guadalupe River. The South Fork Guadalupe River subunit consists of 5.1 river mi (8.2 river km) of the South Fork Guadalupe River in Kerr County, Texas. This subunit extends from Griffin Road crossing just downstream of the Texas Highway 39 crossing in Kerr County, to its confluence with the North Fork Guadalupe River. This subunit is occupied by the Guadalupe orb, and the adjacent riparian area is privately owned. This subunit is mostly rural and agricultural, with organized recreational camps. These camps often operate very low dams that form small impoundments along the subunit. The South Fork Guadalupe River subunit contains all of the PBFs essential to the conservation of the species. This

subunit, combined with the Upper Guadalupe River subunit (GORB-1b), results in a highly resilient population with presence in several tributaries, protecting the population from a single stochastic event eliminating the entire population.

The South Fork Guadalupe River subunit is in a mostly rural setting; is influenced by drought, low flows, and flooding (leading to scour); and is being affected by ongoing agricultural activities and development, resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity.

Subunit GORB-1b: Upper Guadalupe River. The Upper Guadalupe River subunit consists of 97.1 river mi (156.3 river km) of the Guadalupe River in

Comal, Kendall, and Kerr Counties, Texas. This subunit extends from the confluence of the North and South Forks of the Guadalupe River downstream to the U.S. Highway 311 bridge in Comal County, Texas. The Upper Guadalupe River subunit is occupied by the Guadalupe orb, and ownership of adjacent riparian areas is approximately 95 percent private and 5 percent State/local government. At times, the subunit contains all the PBFs essential to the conservation of the Guadalupe orb. In recent years, Guadalupe orb individuals in this reach have experienced some of the highest and lowest flows on record, as well as water quality degradation (high temperature and low dissolved oxygen). Extreme high flows removed needed gravel and cobble in some locations, while extended low flow periods have caused suspended sediment to settle out in areas, reducing substrate quality for the Guadalupe orb.

The Upper Guadalupe River subunit is in a mostly rural setting with some urbanization; is influenced by drought, low flows, and flooding (leading to scour); and is being affected by ongoing agricultural activities and development, resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the Guadalupe fatmucket.

Unit GORB–2: Lower Guadalupe River

Subunit GORB–2a: San Marcos River.

The San Marcos River subunit consists of approximately 63.9 river mi (102.8 river km) in Caldwell, Gonzales, and Guadalupe Counties, Texas. The subunit extends from the FM 1977 bridge crossing in Caldwell County to the Guadalupe River confluence. The subunit is currently occupied by the Guadalupe orb, and ownership of adjacent riparian areas is approximately 94 percent private and 6 percent State/local government. The San Marcos River drains the City of San Marcos, including the campus of Texas State University, leading to impacts of urban runoff, wastewater inputs, and altered hydrology. The large San Marcos springs complex, the second largest in Texas, contributes significantly to the flows in this river and the lower Guadalupe River. This subunit contains all of the PBFs essential to the conservation of the species.

The San Marcos River subunit is in a mostly rural setting with some urbanization; is downstream from an urban area; is influenced by drought, low flows, flooding (leading to scour), and wastewater discharges; and is being affected by ongoing agricultural activities and development, resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the false spike.

Subunit GORB–2b: Lower Guadalupe River. The Lower Guadalupe River subunit consists of approximately 122.4 river mi (197 river km) in DeWitt, Gonzales, and Victoria Counties, Texas. This subunit extends from the San Marcos River confluence downstream to the U.S. Highway 59 bridge crossing near Victoria, Texas. The Lower Guadalupe River subunit is currently occupied by the Guadalupe orb, and ownership of adjacent riparian areas is approximately 95 percent private and 5 percent State/local government. This subunit contains all of the PBFs necessary for the Guadalupe orb and is the most resilient population known. Existing protections for the San Marcos and Comal Springs from the Edwards Aquifer Authority Habitat Conservation Plan provide some protection to spring flows. It is believed that these protected spring flows help ensure that flow rates and water quality are suitable for downstream mussel beds during times of drought and low flows.

The Lower Guadalupe River subunit is in a mostly rural setting with some urbanization downstream from some urban areas; is influenced by reservoir operations, drought, low flows, flooding (leading to scour), and wastewater discharges; and is being affected by ongoing agricultural activities and development, resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the false spike.

Texas Pimpleback

We are designating approximately 374 river mi (602.1 river km) in five units, including eight subunits, as critical habitat for the Texas pimpleback. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the Texas pimpleback. The five areas we are designating as critical habitat are: TXPB–1: Elm Creek Unit; TXPB–2: Concho River Unit; TXPB–3: Upper Colorado River/Lower San Saba River Unit; TXPB–4: Upper San Saba River Unit; and TXPB–5: Llano River Unit. We are excluding Unit TXPB–6: Lower Colorado River (see Summary of Exclusions, below). Table 13 shows the occupancy of the units, the ownership of riparian lands, and approximate length of the designated areas for the Texas pimpleback.

TABLE 13—DESIGNATED CRITICAL HABITAT UNITS FOR THE TEXAS PIMPLEBACK

Unit	Subunit	Adjacent riparian ownership	Occupancy	River miles (kilometers)
TXPB–1: Elm Creek	TXPB–1a: Bluff Creek	Private	Occupied	11.6 (18.7)
	TXPB–1b: Lower	Private	Occupied	0.4 (0.6)
	Elm Creek	State/Local .....	.....	11.9 (19.2)
TXPB–2: Concho River	TXPB–2a: Lower Concho River	Private	Occupied	34.6 (55.7)
TXPB–2b: Upper .....	.....	.....	.....	.....
	Private	Unoccupied	15.2 (24.5).	.....
TXPB–3. Upper Colorado River/ Lower San Saba River.	Concho River	State/Local .....	.....	0.3 (0.5)
	TXPB–3a: Upper Colorado River ...	Private	Occupied	150.4 (242.1)
TXPB–3b: Lower .....	.....	.....	.....	.....
	Private	Occupied	48.6 (78.1).	.....
TXPB–4: Upper San Saba River	San Saba River	State/Local .....	.....	.....
	.....	Private	Occupied	51.4 (82.7)
TXPB–5: Llano River	TXPB–5a: Upper Llano River	Private	Occupied	37.2 (59.9)
	TXPB–5b: Lower Llano River	Private	Unoccupied	11.8 (19.1)
Total .....	.....	.....	.....	374.0 (602.0)

Note: Lengths may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for Texas pimpleback, below.

Unit TXPB-1: Elm Creek

Subunit TXPB-1a: Bluff Creek. This occupied critical habitat subunit consists of 11.6 river mi (18.7 river km) of Bluff Creek, a tributary to Elm Creek, in Runnels County, Texas. The subunit extends from the County Road 153 bridge crossing, near the town of Winters, Texas, downstream to the confluences of Bluff and Elm creeks. The adjacent riparian area of this subunit is privately owned. This subunit is currently occupied by Texas pimpleback. This subunit contains all of the PBFs, although suitable substrate, flow, and water quality are degraded. The Bluff Creek subunit is in a rural setting; is influenced by drought, low flows, and elevated chlorides; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the Texas fatmucket.

Subunit TXPB-1b: Lower Elm Creek. This subunit consists of 12.3 river mi (19.8 river km) of Elm Creek beginning at the County Road 344 crossing downstream to Elm Creek's confluence with the Colorado River in Runnels County, Texas. Ownership of the adjacent riparian areas is approximately 97 percent private and 3 percent State/local government. The Elm Creek watershed is relatively small and remains largely rural and dominated by agricultural practices. This stream regularly has extremely low or no flow during times of drought. Moreover, this stream has elevated chloride concentrations and sedimentation, resulting in reduced habitat quality and availability, as well as decreased water quality. Lower Elm Creek is occupied by the Texas pimpleback and contains some of the PBFs essential to the conservation of the species such as presence of host fish. Other PBFs are present but are in degraded condition and would benefit from management actions such as improving water quality and substrate quality. The Lower Elm Creek subunit is influenced by drought, low flows, and elevated chlorides, and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality

degradation, and groundwater withdrawals and surface water diversions. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This unit is also occupied by the Texas fatmucket.

Even though the Elm Creek unit is smaller than 50 miles, which had been determined as the reach length long enough to withstand stochastic events, the populations in the Bluff Creek and Lower Elm Creek subunits (TXPB-1a and TXPB-1b) increase the species' redundancy, making it more likely to withstand catastrophic events that may eliminate one or more of the other populations.

Unit TXPB-2: Concho River

Subunit TXPB-2a: Lower Concho River. The Lower Concho River subunit consists of approximately 34.6 river mi (55.7 river km) in Concho and Tom Green Counties, Texas. The Lower Concho River subunit extends from the FM 1692 bridge crossing downstream to the FM 1929 crossing. This subunit is occupied, and its adjacent riparian area is privately owned. The Lower Concho River subunit contains some of the PBFs essential to the conservation of the Texas pimpleback, such as some suitable substrate and the presence of host fish. However, the unit does not currently have sufficient water quality (e.g., water temperature is high and dissolved oxygen is low), and instream flow is too low at certain times of the year. Upstream reservoirs, built for flood control and municipal water storage, have contributed to a downward trend in normal river base-flows in recent years. The Lower Concho River subunit is in a mostly rural setting downstream from an urban area, is influenced by reservoir operations and chlorides, and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity.

Subunit TXPB-2b: Upper Concho River. Upper Concho River is not currently occupied by the Texas pimpleback, but is essential for the conservation of the species B. The Upper Concho River subunit consists of 15.5 river mi (25.0 river km) of the Concho River in Tom Green County, Texas, from the FM 380 bridge crossing,

downstream of San Angelo, Texas, to the FM 1692 bridge where it adjoins subunit TXPB-2a. Ownership of the adjacent riparian areas is approximately 98 percent private and 2 percent State/local government.

This subunit is essential to the conservation of the Texas pimpleback because it expands one of the smaller populations to a length that will be highly resilient to stochastic events; its loss would shrink the distribution of the Texas pimpleback and reduce redundancy of the species, limiting its viability. The Upper Concho River subunit is in a mostly rural setting with some urbanization downstream from an urban area; is influenced by reservoir operations, wastewater discharges, and chlorides; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs.

Although it is considered unoccupied, portions of this subunit contain some of the PBFs essential for the conservation of the species. Flowing water is not consistently at levels appropriate for Texas pimpleback in this subunit. Several upstream reservoirs divert the already limited flows, and reduced precipitation has resulted in an overall decrease in river flow rates. Management actions to increase stream flows in this subunit may be necessary for the Texas pimpleback population to be reestablished.

Currently, appropriate substrates exist in isolated areas throughout this subunit. These isolated pockets of suitable habitat could allow for expansion and recolonization of the Texas pimpleback. However, future management actions that focus on habitat restoration in this reach to improve connectivity between habitat patches would improve the resiliency of this population, once restored.

Currently, we believe appropriate host fishes occur throughout the subunit and will allow for reproduction of Texas pimpleback when the species is reestablished. Management actions could address any deficit in the abundance and distribution of fish hosts in this area, which would allow for expansion and future reestablishment of this subunit from the adjacent occupied subunit TXPB-2a.

Water quality is degraded in this subunit. The Upper Concho River subunit, due in part to low flows and elevated water temperatures, experiences decreased levels of dissolved oxygen at such a level that could preclude mussel occupancy. We

believe these periods of low dissolved oxygen primarily occur during hot summer months when droughts are common. Therefore, management actions that increase flow rates would also improve water quality in this reach.

Because this reach of the Concho River periodically contains the appropriate substrate conditions and host fish species used by the Texas pimpleback, it is habitat for the Texas pimpleback.

If the Texas pimpleback can be reestablished in this reach, it will expand the occupied reach length in the Concho River to a length that will be more resilient to the stressors that the species is facing. The longer the reach occupied by a species, the more likely it is that the population can withstand stochastic events such as extreme flooding, dewatering, or water contamination. In the SSA report, we identified 50 miles (80 km) as a reach long enough for a population to be able to withstand stochastic events, and the addition of this 15.5-mile reach to the 34.6-mile occupied section of the Concho River expands the existing Texas fawnsfoot population in the Concho River to 50.1 miles, achieving a length that allows for a highly resilient population to be reestablished, increasing the species' future redundancy. This subunit is essential for the conservation of the species because it provides habitat for range expansion in portions of known historical habitat, and thus will increase viability of the species by increasing its resiliency, redundancy, and representation.

Unit TXPB-3: Upper Colorado River and Lower San Saba River

Subunit TXPB-3a: Upper Colorado River. The Upper Colorado River subunit consists of approximately 150.4 river mi (242.1 river km) in Brown, Coleman, Lampasas, McCulloch, Mills, and San Saba Counties, Texas. The subunit extends from the Coleman and McCulloch county line downstream to the confluence of the Colorado River and Cherokee Creek. The adjacent riparian area of this subunit is privately owned. The Upper Colorado River subunit is occupied by the Texas pimpleback and contains some of the PBFs essential to the conservation of the species, including host fishes in appropriate abundance and portions of suitable substrate. The subunit does not always provide sufficient flow rate or sufficient water quality (e.g., dissolved oxygen is often low, and temperature reaches unsuitably high levels during summer drought) to support the Texas pimpleback. The Upper Colorado River

subunit is in a mostly rural setting; is influenced by reservoir operations and chlorides; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the Texas fawnsfoot.

Subunit TXPB-3b: Lower San Saba River. The Lower San Saba River subunit consists of 49.2 river mi (79.1 river km) of the San Saba River in San Saba County, Texas. This subunit is currently occupied by the species, and the ownership of adjacent riparian areas is approximately 99 percent private and 1 percent State/local government. The Lower San Saba River subunit extends from the Brady Creek confluence in San Saba County, Texas, downstream to the Colorado River confluence where it adjoins the Upper Colorado River subunit (TXPB-3a). This subunit contains all the PBFs essential to the conservation of the Texas pimpleback most of the year. This population contains evidence of recent Texas pimpleback reproduction, which is largely absent from the rest of the species' range.

This subunit is primarily rural, with cattle grazing and irrigated orchards. Summer drought and water withdrawals cause occasional periods of low flow, which result in water quality degradation as water temperatures are high and dissolved oxygen is low. Additionally, high-flow events during flooding can result in habitat scour and sedimentation. The Lower San Saba River subunit is experiencing some urbanization; is influenced by drought, low flows, and wastewater discharges; and is being affected by ongoing agricultural activities and development, resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the Texas fawnsfoot and false spike.

Unit TXPB-4: Upper San Saba River

The Upper San Saba River Unit consists of approximately 51.4 river mi (82.7 river km) of the San Saba River in Menard County, Texas. Adjacent

riparian areas are privately owned. The Upper San Saba River Unit extends from the Schleicher County line near Fort McKavett, Texas, downstream to the FM 1311 bridge crossing in Menard, County, Texas. Texas pimpleback occupies the Upper San Saba River Unit in low densities. The Upper San Saba River Unit contains the PBFs essential to the conservation of the Texas pimpleback most of the year, although flows decline to low levels during summer drought. During these low flow periods, the PBFs of sufficient water flow and water quality may not be present, as low-flow conditions can lead to high water temperature and low dissolved oxygen. The Upper San Saba River Unit is in a rural setting; is influenced by drought, low flows, and underlying geology resulting in a losing reach; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and collection. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit is also occupied by the Texas fatmucket.

Unit TXPB-5: Llano River

Subunit TXPB-5a: Upper Llano River. The Upper Llano River subunit consists of approximately 37.2 river mi (59.9 river km) in Kimble and Mason Counties, Texas. Adjacent riparian areas are privately owned. This subunit extends from the Ranch Road RR 385 bridge crossing downstream to the U.S. Highway 87 bridge. This reach of the Llano River is largely rural, with much of the land in agricultural use. The Upper Llano River subunit is occupied by the Texas pimpleback and contains all the necessary PBFs essential to the conservation of the species most of the year. However, drought conditions and flooding in the Llano River can be extreme, causing the species to experience either extreme low-flow conditions with related reduced water quality or extreme high flows that mobilize substrate, eroding habitat or depositing sediment on Texas pimpleback populations. The Upper Llano River subunit is in a rural setting; is influenced by drought, low flows, and flooding (leading to scour); and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and collection. Therefore, special management considerations may be

necessary to reduce sedimentation, improve water quality, maintain adequate flows, improve habitat connectivity, and manage collection. This subunit is also occupied by the Texas fatmucket.

Subunit TXPB-5b: Lower Llano River. Lower Llano River is not currently occupied by the Texas pimpleback, but is essential for the conservation of the species. The Lower Llano River subunit consists of 11.8 river mi (19.1 river km) of the Llano River in Mason County, Texas. This subunit extends from the U.S. Highway 87 bridge in Mason County downstream to the Mason and Llano county line. Adjacent riparian lands are privately owned.

This subunit is essential to the conservation of the Texas pimpleback because it expands one of the smaller populations to a length that will be highly resilient to stochastic events in a separate tributary; this subunit increases the distribution of Texas pimpleback and increases redundancy of the species, improving its viability. The Lower Llano River subunit is in a rural setting; is influenced by drought, low flows, and flooding (leading to scour); and is being affected by ongoing agricultural activities and development, resulting in excessive sedimentation, water quality degradation, and groundwater withdrawals and surface water diversions.

Although it is considered unoccupied, portions of this subunit contain some or all of the PBFs essential for the conservation of the species. Flowing water is generally sufficient in this subunit during portions of the year. However, in the past decade the Llano River has seen both the highest and lowest flow rates ever recorded, with extremely low water levels and stranding of mussels during low flow conditions and scour and entrainment

of mussels with subsequent deposition over suitable habitat during floods. Spring inputs from the South Llano River help mitigate the effects of drought in the lower portions of the Llano River, although water withdrawals for agricultural operations contribute to decreased flows during drought. Ongoing management actions by resource management agencies and nonprofit organizations are contributing to restoring a natural flow regime.

In the Llano River, suitable substrates exist as isolated riffles between larger pools. Given the hydrology of the Llano River Basin, suitable substrates have been degraded in portions of this subunit and will need restoration.

The Texas pimpleback uses similar host fishes as the closely related Guadalupe orb, including channel catfish, flathead catfish, and tadpole madtom. Sufficiently abundant host fishes are present in the Lower Llano River subunit to support a population of Texas pimpleback.

Water quality in the Lower Llano River subunit is generally sufficient for the species during portions of the year. However, dissolved oxygen declines and water temperature increases during periods of low flow. Management to ensure sufficient flow rates in this reach would improve water quality as well.

Because this reach of the Llano River frequently contains the flowing water conditions, suitable substrates, and host fish species used by the Texas pimpleback, it is adequate habitat for the Texas pimpleback.

If the Texas pimpleback can be reestablished in this reach, it will expand the occupied reach in the Llano River to a length that would be more resilient. The longer the reach occupied by a species, the more likely it is that the population can withstand stochastic events such as extreme flooding,

dewatering, or water contamination. In the SSA report, we identified 50 miles (80 km) as a reach long enough for a population to be able to withstand stochastic events, and the addition of this 11.8-mile reach to the 37.2-mile occupied section of the Llano River expands the existing Texas pimpleback population in the Llano River to 49.0 miles, achieving a length that allows for a highly resilient population to be reestablished, thereby increasing the species' future redundancy. This unit is essential for the conservation of the species because it provides habitat for range expansion in portions of known historical habitat, and thus will increase viability of the species by increasing its resiliency, redundancy, and representation.

This subunit is also occupied by the Texas fatmucket and Balcones spike.

Balcones Spike

We are designating approximately 98.1 river mi (157.9 river km) in two units as critical habitat for Balcones spike. Each of the units is currently occupied by the species and contains all of the PBFs essential to the conservation of the species. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for Balcones spike. The two areas we designate as critical habitat are: BASP-2: San Saba River Unit; and BASP-3: Llano River Unit. We are excluding Unit BASP-1: Little River (see Summary of Exclusions, below). Table 14 shows the occupancy of the units, the ownership of adjacent riparian lands, and approximate length of the designated areas for the Balcones spike. We present brief descriptions of all nits, and reasons why they meet the definition of critical habitat for Balcones spike, below.

TABLE 14—DESIGNATED CRITICAL HABITAT UNITS FOR BALCONES SPIKE

Unit	Subunit	Adjacent riparian ownership	Occupancy	River miles (kilometers)
BASP-2: San Saba River		Private	Occupied	48.5 (78.0)
		State/Local .....	.....	0.6 (1.0)
BASP-3: Llano River		Private	Occupied	49.0 (78.9)
Total				98.1 (157.9)

Note: Lengths may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for Balcones spike, below.

Unit BASP-2: San Saba River

The San Saba River Unit consists of 49.1 river mi (79.0 river km) of the San Saba River in San Saba County, Texas. The unit extends from the San Saba River and Brady Creek confluence and continues downstream to the confluence

of the San Saba and Colorado Rivers. Ownership of adjacent riparian area is approximately 99 percent private and 1 percent State/local government. The unit is currently occupied by the species and contains all of the PBFs essential to the conservation of the Balcones spike.

Even though this unit is smaller than 50 miles, which we had determined was the reach length long enough to withstand stochastic events, this population increases the species' redundancy, making it more likely to withstand catastrophic events that may eliminate one or more of the other populations. The San Saba River subunit is in a rural setting; is influenced by drought, low flows, and wastewater discharges; and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. Much of the land use in the watershed is agricultural, and special management considerations or protection may be necessary to address excess nutrients, sediment, and pollutants that enter the San Saba River and reduce instream water quality. Sources of these types of pollution are wastewater, agricultural runoff, and urban stormwater runoff. Additional special management considerations or protection may be necessary in this unit to address low water levels that result from water withdrawals and drought, as

well as excessive erosion. This subunit is also occupied by the Texas pimpleback.

Unit BASP-3: Llano River

The Llano River Unit consists of 49 river mi (78.9 river km) of the Llano River in Kimble and Mason Counties, Texas. The Llano River Unit begins at the Ranch Road 385 bridge crossing in Kimble County and continues downstream to the Mason and Llano County line. The unit is occupied by the species, and surrounding riparian areas are privately owned. Even though this unit is smaller than 50 miles, which we had determined was the reach length long enough to withstand stochastic events, this population increases the species' redundancy, making it more likely to withstand catastrophic events that may eliminate one or more of the other populations. The majority of the Llano River Basin is rural and composed of agricultural operations that were historically used for sheep and goat ranching. During 2018, the Llano River experienced some of the largest floods and most severe drought within the same year. Extreme floods and drought conditions result in both stream bed mobilization, sedimentation, and dewatering. The Llano River Unit contains all the PBFs essential to the conservation of the Balcones spike. The Llano River unit is in a rural setting; is

influenced by drought, low flows, and flooding (leading to scour); and is being affected by ongoing agricultural activities and development resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and collection. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, improve habitat connectivity, and manage collection. This subunit is also occupied by the Texas fatmucket, Texas fawnsfoot, and Texas pimpleback.

False Spike

We are designating approximately 143.6 river mi (231 river km) in one unit, consisting of two subunits, as critical habitat for the false spike. Each of the two subunits is currently occupied by the species and contains all of the PBFs essential to the conservation of the species. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for false spike. The one area we designate as critical habitat is FASP-1: Guadalupe River Unit. Table 15 shows the occupancy of the units, the ownership of adjacent riparian lands, and approximate length of the designated areas for the false spike.

TABLE 15—DESIGNATED CRITICAL HABITAT UNIT FOR FALSE SPIKE

Unit	Subunit	Adjacent riparian ownership	Occupancy	River miles (kilometers)
FASP-1: Guadalupe River	FASP-1a: San Marcos River	Private	Occupied	19.4 (31.1)
		State/Local .....	.....	1.8 (2.9)
	FASP-1b: Guadalupe River	Private	Occupied	116.6 (187.7)
		State/Local .....	.....	5.8 (9.3)
Total .....	.....	.....	.....	143.6 (231.0)

Note: Lengths may not sum due to rounding.

We present a brief description of the unit, and reasons why it meets the definition of critical habitat for false spike, below.

Unit FASP-1: Guadalupe River

Subunit FASP-1a: San Marcos River. This subunit consists of 21.2 river mi (34 river km) of the San Marcos River in Gonzales County, Texas. The San Marcos River subunit begins at the FM 2091 bridge crossing within Palmetto State Park (Park Road 11) and continues for 21.2 river mi downstream to the San Marcos River confluence with the Guadalupe River. Ownership of the adjacent riparian area is approximately 92 percent private and 8 percent State/

local government; TPWD's Palmetto State Park occurs in the upstream reaches. The San Marcos River drains the City of San Marcos, including the campus of Texas State University, which causes the river to be impacted by urban runoff, wastewater inputs, and altered hydrology. The San Marcos springs complex, the second largest in Texas, contributes significantly to the flows in this river and the lower Guadalupe River. The lower San Marcos River watershed is characterized by agricultural land in the lower portion of the San Marcos River. The subunit is occupied by the false spike and contains all of the PBFs essential to the conservation of the species. Because the

San Marcos River subunit is downstream from an urban area in a rural but urbanizing setting, it is influenced by wastewater discharges and ongoing development in the upper reaches associated with the Austin-Round Rock metropolitan area. It is also being affected by ongoing development and agricultural activities resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. Special management considerations may be

necessary to address riparian bank sloughing, increased sedimentation, and pollutants from upstream urbanization and agricultural practices. This subunit is also occupied by the Guadalupe orb.

Subunit FASP-1b: Guadalupe River. This subunit consists of 122.4 river mi (197 river km) of the Guadalupe River in DeWitt, Gonzales, and Victoria Counties, Texas. The Guadalupe River subunit begins at the confluence of the Guadalupe and San Marcos Rivers and continues downstream for 122.4 river mi to the U.S. Highway 59 bridge near Victoria, Texas. Ownership of adjacent riparian areas is approximately 98 percent private and 2 percent State/local. This subunit is occupied by the false spike and contains all of the PBFs essential to the conservation of the species. The Guadalupe River subunit is in a mostly rural but urbanizing setting; is influenced by reservoir releases (from Canyon and Guadalupe Valley) and flooding (leading to scour); and is being affected by ongoing development and agricultural activities resulting in excessive sedimentation, water quality degradation, groundwater withdrawals and surface water diversions, and wastewater inputs. Therefore, special management considerations may be necessary to reduce sedimentation, improve water quality, maintain adequate flows, and improve habitat connectivity. This subunit contains the most resilient known population of false spike. During times of drought, spring water influence from the Comal and San Marcos Rivers can contribute as much as 50 percent of the flows to the lower Guadalupe River. Continued protections for these spring systems are imperative for protecting mussel beds in the lower Guadalupe River. Special management considerations may be necessary to ensure low flows, sedimentation, and degraded water quality parameters do not worsen and contribute to future population decline. This subunit is also occupied by the Guadalupe orb.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species.

We published a final rule revising the definition of destruction or adverse modification on August 27, 2019 (84 FR 44976). Destruction or adverse modification means a direct or indirect

alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species.

Compliance with the requirements of section 7(a)(2) of the Act is documented through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define “reasonable and prudent alternatives” (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency’s legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Service Director’s opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 set forth requirements for Federal agencies to reinstate consultation. Reinitiation of consultation is required and shall be requested by the Federal agency, where discretionary Federal involvement or control over the action has been retained or is authorized by law and: (1) if the amount or extent of taking specified in the incidental take statement is exceeded; (2) if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written

concurrence; or (4) if a new species is listed or critical habitat designated that may be affected by the identified action. As provided in 50 CFR 402.16, the requirement to reinstate consultations for new species listings or critical habitat designation does not apply to certain agency actions (e.g., land management plans issued by the Bureau of Land Management in certain circumstances).

Destruction or Adverse Modification of Critical Habitat

The key factor related to the destruction or adverse modification determination is whether implementation of the proposed Federal action directly or indirectly alters the designated critical habitat in a way that appreciably diminishes the value of the critical habitat as a whole for the conservation of the listed species. As discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires that our Federal Register notices “shall, to the maximum extent practicable also include a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify [critical] habitat, or may be affected by such designation.” Activities that may be affected by designation of critical habitat for the Guadalupe fatmucket, Texas fatmucket, Texas fawnsfoot, Guadalupe orb, Texas pimpleback, Balcones spike, and false spike include those that may affect the physical or biological features of these seven central Texas mussels’ critical habitat (see Physical or Biological Features Essential to the Conservation of the Species).

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that the Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense (DoD), or designated for its use, that are subject to an integrated natural resources management plan (INRMP) prepared under section 101 of the Sikes Act Improvement Act of 1997 (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation. There are no DoD lands with a completed INRMP

within the final critical habitat designation.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. Exclusion decisions are governed by the regulations at 50 CFR 424.19 and the Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act (hereafter, the “2016 Policy”; 81 FR 7226, February 11, 2016)—both of which were developed jointly with the National Marine Fisheries Service (NMFS). We also refer to a 2008 Department of the Interior Solicitor’s opinion entitled, “The Secretary’s Authority to Exclude Areas from a Critical Habitat Designation under Section 4(b)(2) of the Endangered Species Act” (M–37016). We explain each decision to exclude areas, as well as decisions not to exclude, to demonstrate that the decision is reasonable.

The Secretary may exclude any particular area if she determines that the benefits of such exclusion outweigh the benefits of including such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making the determination to exclude a particular area, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

We describe below the process that we undertook for deciding whether to exclude any areas—taking into consideration each category of impacts and our analysis of the relevant impacts.

Exclusions Based on Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis which, together with our narrative and interpretation of effects, we consider our economic

analysis of the critical habitat designation and related factors (IEc 2019, entire). The analysis, dated December 4, 2019, was made available for public review from August 26, 2021, through October 25, 2021 (see 86 FR 47916). The economic analysis addressed probable economic impacts of critical habitat designation for the central Texas mussels. Following the close of the comment period, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Additional information relevant to the probable incremental economic impacts of critical habitat designation for the seven central Texas mussels is summarized below and available in the screening analysis (IEc 2019, entire), available at <https://www.regulations.gov>.

Executive Orders (E.O.s) 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Executive Order 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866, E.O. 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly affected entities, where practicable and reasonable. If sufficient data are available, we assess to the extent practicable the probable impacts to both directly and indirectly affected entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas affected by the critical habitat designations. In our December 4, 2019, IEM describing probable incremental economic impacts that may result from the designations, we first identified probable incremental economic impacts associated with each of the following categories of activities: (1) Federal lands management (National Park Service, U.S. Forest Service, Department of Defense); (2) agriculture; (3) forest management/silviculture/timber; (4) development; (5) recreation; (6) restoration activities; and (7) transportation. We considered each industry or category individually. Additionally, we considered whether

the activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. When this rule is effective (see **DATES**, above), in areas where the central Texas mussels are present, under section 7 of the Act, Federal agencies will be required to consult with the Service on activities they fund, permit, or implement that may affect the species. Consultations to avoid the destruction or adverse modification of critical habitat will be incorporated into the existing consultation process.

In our IEM, we attempted to clarify the distinction between the effects that result from the species being listed and those attributable to the critical habitat designations (*i.e.*, difference between the jeopardy and adverse modification standards) for the central Texas mussels. Because the designation of critical habitat is being promulgated concurrently with the listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which will result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical or biological features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to the central Texas mussels would also likely adversely affect the essential physical or biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designations of critical habitat for these species. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of these designations of critical habitat.

The critical habitat designations for the central Texas mussels total approximately 1,577.5 river mi (2,538.7 river km) in 20 units with a combination of occupied and unoccupied areas. In occupied areas, any actions that may affect the species or their habitat would likely also affect critical habitat, and it is unlikely that any additional conservation efforts would be required to address the adverse modification standard over and above those recommended as necessary to avoid

jeopardizing the continued existence of the species. Therefore, the only additional costs that are expected in the occupied critical habitat designations are administrative costs, due to the fact that this additional analysis will require time and resources by both the Federal action agency and the Service. However, it is believed that, in most circumstances, these costs will not reach the threshold of “significant” under E.O. 12866. We anticipate incremental costs of section 7 consultations in occupied critical habitat to total less than \$75,000 per year.

In unoccupied critical habitat, any costs of section 7 consultations will not be incurred due to the listing of the species, but instead due to the critical habitat designation. We are designating four subunits that are currently unoccupied by the central Texas mussels. We anticipate approximately five new formal section 7 consultations to occur in the next 10 years in these subunits. Considering the costs of formal consultation as well as project modifications that arise from consultation, we project consultations in unoccupied critical habitat to cost approximately \$15,000 per consultation.

In total, in both occupied and unoccupied critical habitat, we expect the total cost of critical habitat designations not to exceed \$82,500 per year.

We considered the economic impacts of the critical habitat designation. The Secretary is not exercising her discretion to exclude any areas from this designation of critical habitat for the seven central Texas mussels based on economic impacts.

Exclusions Based on Impacts on National Security and Homeland Security

In preparing this rule, we determined that there are no lands within the designated critical habitat for the central Texas mussels that are owned or managed by the DoD or Department of Homeland Security, and, therefore, we anticipate no impact on national security or homeland security. We did not receive any additional information during the public comment period for the proposed designation regarding impacts of the designation on national security or homeland security that would support excluding any specific areas from the final critical habitat designation under authority of section 4(b)(2) and our implementing regulations at 50 CFR 424.19, as well as the 2016 Policy.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security discussed above. To identify other relevant impacts that may affect the exclusion analysis, we consider a number of factors, including whether there are permitted conservation plans covering the species in the area such as HCPs, safe harbor agreements, or CCAAs, or whether there are non-permitted conservation agreements and partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at whether Tribal conservation plans or partnerships, Tribal resources, or government-to-government relationships of the United States with Tribal entities may be affected by the designation. We also consider any State, local, social, or other impacts that might occur because of the designation.

When identifying the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive due to the protection from destruction or adverse modification as a result of actions with a Federal nexus, the educational benefits of mapping essential habitat for recovery of the listed species, and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat.

In the case of Texas fawnsfoot, Texas pimpleback, and Balcones spike, the benefits of critical habitat include public awareness of the presence of these species and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for Texas fawnsfoot, Texas pimpleback, and Balcones spike due to protection from destruction or adverse modification of critical habitat.

When identifying the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation, or in the continuation, strengthening, or encouragement of partnerships. Additionally, continued implementation of an ongoing management plan that provides conservation equal to or more than the protections that result from a critical habitat designation would reduce those benefits of including that specific area in the critical habitat designation.

We evaluate the existence of a conservation plan when considering the benefits of inclusion. We consider a variety of factors, including, but not limited to, whether the plan is finalized;

how it provides for the conservation of the essential physical or biological features; whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan will be implemented into the future; whether the conservation strategies in the plan are likely to be effective; and whether the plan contains a monitoring program or adaptive management to ensure that the conservation measures are effective and can be adapted in the future in response to new information.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to evaluate whether the benefits of exclusion outweigh those of inclusion. If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction of the species. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

Based on the information provided by entities seeking exclusion, as well as additional public comments we received, and the best scientific data available, we evaluated whether certain river mi in units TXFF-3, TXFF-4, TXFF-6, TXFF-7, TXFF-8, TXPB-6, and BASP-1 (see table 16, below) are appropriate for exclusion from this final designation under section 4(b)(2) of the Act. This analysis indicates that the benefits of excluding areas from the final designation outweigh the benefits of designating those areas as critical habitat; thus, the Secretary is exercising her discretion to exclude the areas from the final designation. In the paragraphs below, we provide a detailed balancing analysis of the areas being excluded under section 4(b)(2) of the Act.

Private or Other Non-Federal Conservation Plans Related to Permits Under Section 10 of the Act

Habitat conservation plans (HCPs) for incidental take permits under section 10(a)(1)(B) of the Act provide for partnerships with non-Federal entities to minimize and mitigate impacts to listed species and their habitats. In some cases, HCP permittees agree to do more for the conservation of the species and their habitats on private lands than designation of critical habitat would provide alone. We place great value on the partnerships that are developed during the preparation and implementation of HCPs.

Candidate conservation agreements with assurances (CCAAs) and safe harbor agreements (SHAs) are voluntary agreements designed to conserve

candidate and listed species, respectively, on non-Federal lands. In exchange for actions that contribute to the conservation of species on non-Federal lands, participating property owners are covered by an “enhancement of survival” permit under section 10(a)(1)(A) of the Act, which authorizes incidental take of the covered species that may result from implementation of conservation actions, specific land uses, and, in the case of SHAs, the option to return to a baseline condition under the agreements. We also provide enrollees assurances that we will not impose further land-, water-, or resource-use restrictions, or require additional commitments of land, water, or finances, beyond those agreed to in the agreements.

When we undertake a discretionary section 4(b)(2) exclusion analysis based on permitted conservation plans such as CCAAs, SHAs, and HCPs, we anticipate consistently excluding such areas if incidental take caused by the activities in those areas is covered by the permit under section 10 of the Act and the CCAA/SHA/HCP meets all of the following three factors (see the 2016 Policy for additional details):

a. The permittee is properly implementing the CCAA/SHA/HCP and is expected to continue to do so for the term of the agreement. A CCAA/SHA/HCP is properly implemented if the permittee is, and has been, fully implementing the commitments and provisions in the CCAA/SHA/HCP, implementing agreement, and permit.

b. The species for which critical habitat is being designated is a covered species in the CCAA/SHA/HCP, or very similar in its habitat requirements to a covered species. The recognition that we extend to such an agreement depends on the degree to which the conservation measures undertaken in the CCAA/SHA/HCP would also protect the habitat features of the similar species.

c. The CCAA/SHA/HCP specifically addresses that species’ habitat and meets the conservation needs of the species in the planning area.

We conducted exclusion analyses on the BRA Agreement, LCRA Agreement, and TRA Agreement, which are presented below.

The Brazos River Authority Candidate Conservation Agreement With Assurances for the Balcones Spike and Texas Fawnsfoot in the Brazos River Basin

We have determined that the BRA Agreement fulfills the above criteria, through the following actions:

(i) The permittee (BRA) has implemented or is in the process of implementing conservation measures agreed upon as part of the CCAA, including, but not limited to, conducting knowledge gap surveys, providing public comment on projects in the basin that may affect the covered species or their habitats, and preparing appropriate drought contingency and long-term monitoring plans.

(ii) The finalized CCAA includes the Balcones spike and Texas fawnsfoot as covered species.

(iii) The CCAA specifically identifies conservation measures to be implemented within habitats included within proposed critical habitat stream reaches. This includes the implementation of avoidance and minimization measures as well as applied research to inform future stream and habitat management efforts.

Therefore, we are excluding certain non-Federal lands covered by this plan that provide for the conservation of the Texas fawnsfoot and Balcones spike, as further explained below.

In 2021, the Brazos River Authority submitted the BRA Agreement as part of an application for an enhancement-of-survival permit under section 10(a)(1)(A) of the Act. The BRA Agreement benefits freshwater mussels and concurrently other native aquatic species in the Brazos River Basin through facilitating studies, minimizing impacts, and conserving populations and habitat. The BRA Agreement is between the Brazos River Authority and the Service (collectively, “the Parties”). The BRA Agreement covers eligible, non-Federal lands within the Brazos River Authority management area in the Brazos River Basin. Non-Federal lands are those lands owned by non-Federal landowners, which include, but are not limited to, State, Tribal, regional, or local governments; private or nonprofit organizations; or private citizens.

The conservation goals of the BRA Agreement are to improve the health of existing populations of the Texas fawnsfoot and Balcones spike in the Brazos River Basin. Under the BRA Agreement, cooperators will avoid construction or other development impacts to instream habitat used by the Texas fawnsfoot and Balcones spike, will complete applied research and advocate for increased water quality and water quantity protections for these covered species, and will assist with habitat conservation for the remainder of the term of the BRA Agreement.

Expected outcomes of implementing the BRA Agreement include the protection and study of instream habitat; completion of modeling that

will guide future efforts to improve water quality and quantity; reduction of erosion and sedimentation; and research and monitoring to gain further understanding of existing Texas fawnsfoot and Balcones spike populations and the threats to them throughout the term of the BRA Agreement. The propagation activities included in the BRA Agreement will also increase probability that the Texas fawnsfoot, Balcones spike, and other covered species will expand their ranges and survive and recruit new cohorts in reintroduced areas. The BRA Agreement in its entirety can be found at: <https://www.fws.gov/library/collections/candidate-conservation-agreement-assurances-balcones-spike-and-texas-fawnsfoot>.

Benefits of Inclusion—BRA Agreement Proposed Units TXFF-3, TXFF-4, and BASP-1: The principal benefit of including an area in critical habitat designation is the requirement of Federal agencies to ensure that actions that they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat, which is the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. In areas where a listed species occurs, Federal agencies must consult with the Service on actions that may affect a listed species, and refrain from actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some cases, the outcome of these analyses will be similar, because effects to habitat will often result in effects to the species. This situation applies to proposed Units TXFF-3 and TXFF-4 for the Texas fawnsfoot and Unit BASP-1 for the Balcones spike because the species currently occupy the units considered for exclusion. Additionally, the areas that we considered for exclusion do not contain any land where such a nexus would exist. Therefore, the benefit of including these areas in the critical habitat designation to further protect the species and their habitats via consultation is minimal.

In section 9.4 of the CCAA, BRA agrees to conservation measures that implement avoidance and minimization measures in streams reaches included in the proposed critical habitat segments. These measures include: (1) The agreement to not construct additional dams in the mainstem Brazos River or Little River; (2) the agreement to not

sponsor any infrastructure or diversion projects in Zone A (includes portions of the Little River, San Gabriel River, or Brushy Creek); and (3) the agreement to conduct the necessary mussel surveys in Zones B and C to guide placement of infrastructure to minimize disturbance to populations of covered species and their habitats. The CCAA also notes that if new populations of covered species are discovered in the basin, conservation zones and the associated avoidance and minimization measures will be reevaluated. Due to the implementation of these avoidance and minimization measures for the covered species and their habitats, the benefit of including these proposed units in the final critical habitat designation to further protect the species and its habitat via consultation is minimal.

Another possible benefit of designating lands as critical habitat is public education regarding the potential conservation value of an area that may help focus conservation efforts on areas of high conservation value for certain species. We consider any information about the Texas fawnsfoot, Balcones spike, and their habitats that reaches a wide audience, including parties engaged in conservation activities, to be valuable. Designation of critical habitat would provide educational benefits by informing Federal agencies and the public about the presence of listed species for all units.

In summary, we find that the benefits of inclusion of approximately 413.8 river mi (666.0 river km) in proposed Units TXFF-3 and TXFF-4 of waterways within the Brazos River Basin for the Texas fawnsfoot and approximately 79.2 river mi (127.5 river km) in proposed Unit BASP-1 of waterways within the Brazos River Basin for the Balcones spike are educational benefits for the Texas fawnsfoot, Balcones spike, and their habitats.

Benefits of Exclusion—BRA Agreement Proposed Units TXFF-3, TXFF-4, and BASP-1: The benefits of excluding 413.8 river mi (666.0 river km) in the Brazos River Basin for the Texas fawnsfoot and 79.2 river mi (127.5 river km) in the Brazos River Basin for the Balcones spike under the BRA Agreement from the designation of critical habitat are substantial and include: (1) Continuance and strengthening of our effective working relationship with partners to promote voluntary, proactive conservation of the Texas fawnsfoot, Balcones spike, and their habitats; (2) allowance for continued meaningful collaboration and cooperation in working toward species recovery, including conservation

benefits that might not otherwise occur; and (3) encouragement of developing additional conservation and management plans in the future for other federally listed and sensitive species.

Partnerships with non-Federal landowners are vital to the conservation of at-risk species, especially on non-Federal lands; therefore, the Service is committed to supporting and encouraging such partnerships through the recognition of positive conservation contributions. TPWD reviewed the BRA Agreement while it was in development and has ensured the identified conservation activities are necessary and advisable. In the case considered here, excluding these areas from critical habitat will help foster the partnerships the landowners and land managers in question have developed with Federal and State agencies and local conservation organizations; will encourage the continued implementation of voluntary conservation actions for the benefit of the Texas fawnsfoot, Balcones spike, and their habitats on these lands; and may also serve as a model and aid in fostering future cooperative relationships with other parties here and in other locations for the benefit of other endangered or threatened species. Therefore, we consider the positive effect of excluding from critical habitat areas managed by active conservation partners to be a significant benefit of exclusion.

Benefits of Exclusion Outweigh the Benefits of Inclusion—BRA Agreement Proposed Units TXFF-3, TXFF-4, and BASP-1: We evaluated the exclusion of 413.8 river mi (666.0 river km) of waterways adjacent to private land for the Texas fawnsfoot and 79.2 river mi (127.5 river km) of waterways adjacent to private land for the Balcones spike within the areas covered by the BRA Agreement from our designation of critical habitat, and we determined the benefits of excluding these lands outweigh the benefits of including them as critical habitat for the Texas fawnsfoot and Balcones spike.

The BRA CCAA includes a variety of management, communication and education, and applied research conservation measures targeting these excluded critical habitat units. Some of these measures include, but are not limited to, the completion of additional hydrologic modeling on a repeating 5-year basis in the basin to identify the areas of the basin that are at highest risk of drought-associated low flow conditions and associated water management scenarios. As part of the CCAA, the BRA also implemented an

extensive public outreach campaign to inform and educate private landowners of their covered species, the threats that they are experiencing in the basin, and ways in which they can promote the conservation of these species and their habitats. Most importantly, the BRA will maintain environmental flows included in their Water Management Plan and incorporate data from proposed applied research into the thermal tolerances of their covered species into an adaptive management process to provide conservation benefits to the species. The agreement also states that as new data become available regarding the flow needs of the covered species, they will work with the TCEQ to integrate these data into future updates of the Texas Environmental Flow Standards for Surface Water.

We conclude that the additional regulatory and educational benefits of including these lands in the critical habitat designation are relatively small, because of the low likelihood of a Federal nexus occurring on private lands. These benefits are further reduced by the existence of the BRA Agreement and the conservation measures described above, which address many of the threats the species face in this area. We anticipate that there would be little additional Federal regulatory benefit to designating critical habitat for the species on private land because there is a low likelihood that these areas will have Federal activities requiring section 7 consultation. Additionally ongoing management activities as a result of the BRA Agreement obviate any additional requirements pursuant to a consultation that addresses critical habitat. Because any conservation actions that do result from consultations would already be required due to the presence of the species, there would be few or no additional actions required from the presence of critical habitat. Furthermore, the potential educational and informational benefits of critical habitat designation on areas containing the PBFs essential to the conservation of the Texas fawnsfoot and Balcones spike would be minimal, because the Brazos River Authority has demonstrated their knowledge of the species and its habitat needs in the process of developing their partnership with the Service.

In contrast, the benefits derived from excluding the areas managed by these owners and enhancing our partnership with the Brazos River Authority are significant. Because voluntary conservation efforts for the benefit of the species on non-Federal lands are so valuable, the Service considers the maintenance and encouragement of

conservation partnerships to be a significant benefit of exclusion. The development and maintenance of effective working partnerships with non-Federal partners for the conservation of at-risk species is particularly important in areas such as Texas, a State with relatively little Federal landownership but many species of conservation concern. Excluding these areas from critical habitat will help foster the partnerships in question that have been developed with Federal and State agencies and local conservation organizations and will encourage the continued implementation of voluntary conservation actions for the benefit of the Texas fawnsfoot, Balcones spike, and their habitats in the Brazos River Basin. The current active conservation efforts on some of these areas contribute to our knowledge of the species through monitoring and scientific research. In addition, these partnerships not only provide a benefit for the conservation of these species but may also serve as a model and aid in fostering future cooperative relationships with other parties in Texas and in other locations for the benefit of other endangered or threatened species.

We find that excluding areas from critical habitat that are receiving both long-term conservation and management for the purpose of protecting the habitat that supports the Texas fawnsfoot and Balcones spike will preserve our external partnerships in Texas and will encourage future collaboration towards conservation and recovery of listed species. The partnership benefits are significant and outweigh the small potential regulatory, educational, and ancillary benefits of including the land in the final critical habitat designation for the Texas fawnsfoot or Balcones spike. Therefore, the BRA Agreement provides greater protection of habitat for the Texas fawnsfoot and Balcones spike than could be gained through the project-by-project analysis of a critical habitat designation.

Exclusion Will Not Result in Extinction of the Species—BRA Agreement Proposed Units TXFF-3, TXFF-4, and BASP-1: We determined that the exclusion of 413.8 river mi (666.0 river km) of waterways adjacent to private land for the Texas fawnsfoot and 79.2 river mi (127.5 river km) of waterways adjacent to private land for the Balcones spike within the boundaries of the Brazos River Basin covered by the BRA Agreement will not result in extinction of the taxa. Protections afforded to the species and their habitat by the BRA Agreement

provide assurances that the species will not go extinct as a result of excluding these lands from the critical habitat designation.

An important consideration as we evaluate these exclusions and their potential effect on the species in question is that critical habitat does not carry with it a regulatory requirement to restore or actively manage habitat for the benefit of listed species; the regulatory effect of critical habitat is only the avoidance of destruction or adverse modification of critical habitat should an action with a Federal nexus occur. It is, therefore, advantageous for the conservation of the species to support the proactive efforts of non-Federal landowners who are contributing to the enhancement of essential habitat features for listed species through exclusion. The jeopardy standard of section 7 of the Act will also provide protection in these occupied areas when there is a Federal nexus. Therefore, based on the above discussion, the Secretary is exercising her discretion to exclude approximately 413.8 river mi (666.0 river km) of waterways from the designation of critical habitat for the Texas fawnsfoot and approximately 79.2 river mi (127.5 river km) of waterways from the designation of critical habitat for the Balcones spike.

Candidate Conservation Agreement With Assurances for the Texas Pimpleback, Texas Fawnsfoot, Texas Fatmucket, and Balcones Spike in the Lower Colorado River Basin Below O.H. Ivie Reservoir

We have determined that the LCRA Agreement fulfills the above criteria, through the following actions:

(i) The permittees (LCRA and LCRA Transmission Services Corporation (TSC)) have implemented or are in the process of implementing conservation measures agreed upon as part of the CCAA, including, but not limited to, the continuation of water-quality monitoring in key reaches of the basin, providing adequate water for environmental flows protection, and funding of applied mussel restoration assessment research for the Texas pimpleback.

(ii) The finalized CCAA includes the Texas pimpleback and Texas fawnsfoot, as well as the Texas fatmucket and Balcones spike, as covered species.

(iii) The CCAA specifically identifies conservation measures to be implemented within habitats included within proposed critical habitat stream reaches. This includes the implementation of avoidance and minimization measures, maintenance of

flows ensuring environmental flows protection, and applied research to inform future population restoration and stream and habitat management efforts.

Therefore, we are excluding certain non-Federal lands covered by this plan that provide for the conservation of the Texas pimpleback and Texas fawnsfoot.

In 2023, the Lower Colorado River Authority (LCRA) and Lower Colorado River Authority Transmission Services Corporation (LCRA TSC) submitted the LCRA Agreement as part of an application for an enhancement-of-survival permit under section 10(a)(1)(A) of the Act. The LCRA Agreement benefits freshwater mussels and concurrently other native aquatic species in the lower Colorado River Basin through facilitating studies, minimizing impacts, and conserving populations and habitat. The LCRA Agreement is between the Lower Colorado River Authority, the Lower Colorado River Authority Transmission Services Corporation, and the Service (collectively, “the Parties”). The LCRA Agreement covers eligible non-Federal lands within the Lower Colorado River Authority management area in the lower Colorado River Basin. Non-Federal lands are those lands owned by non-Federal landowners which include, but are not limited to, State, Tribal, regional, or local governments; private or nonprofit organizations; or private citizens.

The conservation goals of the LCRA Agreement are to improve the health of existing populations of the Texas pimpleback, Texas fawnsfoot, Texas fatmucket, and Balcones spike populations in the lower Colorado River Basin and to reestablish one population of each of the covered species in the lower Colorado River Basin. Under the LCRA Agreement, cooperators will avoid construction or other development impacts to instream habitat available to the Texas pimpleback, Texas fawnsfoot, Texas fatmucket, and Balcones spike; will complete applied research and advocate for increased water quality and water quantity protections for the Texas pimpleback, Texas fawnsfoot, Texas fatmucket, and Balcones spike; and will assist with habitat conservation for the remainder of the term of the LCRA Agreement.

Expected outcomes of implementing the LCRA Agreement include protection and study of instream habitat, completion of studies to guide future efforts to improve water quality and quantity, reduction of erosion and sedimentation, and research and monitoring to gain further

understanding of existing Texas pimpleback, Texas fawnsfoot, Texas fatmucket, and Balcones spike populations and the threats to them throughout the term of the LCRA Agreement. The conservation activities included in the LCRA Agreement increase the probability that the Texas pimpleback, Texas fawnsfoot, Texas fatmucket, and Balcones spike will expand their ranges, survive, and recruit new cohorts. The Agreement in its entirety can be found at: <https://www.fws.gov/media/signed-ccaa-six-species-trinity-river-basin>.

Benefits of Inclusion—LCRA Agreement Proposed Units TXPB-6 and TXFF-6: The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure that actions that they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat, which is the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. In areas where a listed species occurs, Federal agencies must consult with the Service on actions that may affect a listed species, and refrain from actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some cases, the outcome of these analyses will be similar, because effects to habitat will often result in effects to the species. This situation applies to Unit TXPB-6 for the Texas pimpleback and Unit TXFF-6 for the Texas fawnsfoot because the species currently occupy the units considered for exclusion. Critical habitat designation may provide a regulatory benefit for the Texas pimpleback or the Texas fawnsfoot on lands covered under the LCRA Agreement when there is a Federal nexus present for a project that might adversely modify critical habitat. However, the areas that are considered for exclusion do not contain any land where such a Federal nexus would exist.

In section 7.2 of the CCAA, LCRA and LCRA TSC agree to implement avoidance and minimization measures in designated management zones that include reaches of the proposed critical habitat segments. These measures include (1) completing appropriate mussel surveys and relocations in intermittent or perennial Zone A or Zone B stream reaches prior to initiating any disturbances associated with

covered activities; (2) avoiding the placement of any new infrastructure in areas that are occupied by mussel beds unless agreed upon by the Service that the placement is necessary for the implementation of other conservation measures; and (3) implementing appropriate erosion and sediment control measures, minimizing vegetation clearing in riparian zones, and restoring streambanks, streambeds, and vegetation following site-level disturbances. Due to the implementation of these avoidance and minimization measures for the covered species and their habitats as well as the agreement to complete appropriate mussel survey and relocation efforts, the benefit of including these proposed units in the critical habitat designation to further protect the species and its habitat via consultation is minimal.

Another possible benefit of designating lands as critical habitat is public education regarding the potential conservation value of an area that may help focus conservation efforts on areas of high conservation value for certain species. We consider any information about the Texas pimpleback, the Texas fawnsfoot, and their habitats that reaches a wide audience, including parties engaged in conservation activities, to be valuable. Designation of critical habitat would provide educational benefits by informing Federal agencies and the public about the presence of listed species for all units.

In summary, we find that the benefits of inclusion of approximately 108.9 river mi (175.2 river km) in proposed Unit TXPB-6 of waterways within the lower Colorado River Basin for the Texas pimpleback and approximately 121.8 river mi (196.0 river km) in proposed Unit TXFF-6 of waterways within the lower Colorado River Basin for the Texas fawnsfoot are: (1) A regulatory benefit when there is a Federal nexus present for a project that might adversely modify critical habitat; and (2) educational benefits for the Texas pimpleback, Texas fawnsfoot, and their habitats.

Benefits of Exclusion—LCRA Agreement Proposed Units TXPB-6 and TXFF-6: The benefits of excluding 108.9 river mi (175.2 river km) in the lower Colorado River Basin for the Texas pimpleback and 121.8 river mi (196.0 river km) in the lower Colorado River Basin for the Texas fawnsfoot under the LCRA Agreement from the designation of critical habitat are substantial and include: (1) Continuance and strengthening of our effective working relationship with partners to promote voluntary, proactive conservation of the

Texas pimpleback, Texas fawnsfoot, and their habitats as opposed to reactive regulation; (2) allowance for continued meaningful collaboration and cooperation in working toward species recovery, including conservation benefits that might not otherwise occur; and (3) encouragement of developing additional conservation and management plans in the future for other federally listed and sensitive species. Additionally, partnerships with non-Federal landowners are vital to the conservation of at-risk species, especially on non-Federal lands; therefore, the Service is committed to supporting and encouraging such partnerships through the recognition of positive conservation contributions. In the case considered here, excluding these areas from critical habitat will help foster the partnerships the landowners and land managers in question have developed with Federal and State agencies and local conservation organizations; will encourage the continued implementation of voluntary conservation actions for the benefit of the Texas pimpleback, the Texas fawnsfoot, and their habitats on these lands; and may also serve as a model and aid in fostering future cooperative relationships with other parties here and in other locations for the benefit of other endangered or threatened species. Therefore, we consider the positive effect of excluding from critical habitat areas managed by active conservation partners to be a significant benefit of exclusion.

Benefits of Exclusion Outweigh the Benefits of Inclusion—LCRA Agreement Proposed Units TXPB-6 and TXFF-6: We evaluated the exclusion of 108.9 river mi (175.2 river km) of waterways adjacent to private land for the Texas pimpleback and 121.8 river mi (196.0 river km) of waterways adjacent to private land for the Texas fawnsfoot within the areas covered by the LCRA Agreement from our designation of critical habitat, and we determined the benefits of excluding these areas outweigh the benefits of including them as critical habitat for the Texas pimpleback and the Texas fawnsfoot.

The LCRA CCAA includes a variety of management, communication and education, and applied research conservation measures targeting these excluded critical habitat units. Some of these measures include, but are not limited to, the preparation of a drought management plan and facilitation of a water quality monitoring program in the basin to identify potential areas of stress or stranding of covered mussel species during low flow conditions. As part of

the CCAA, the LCRA and LCRA TSC also committed to providing comments to notifications of proposed construction projects occurring in Conservation Zones A and B where covered mussel species may be present. In these comments, the LCRA and LCRA TSC will include language notifying the responsible parties of the likelihood of presence of the covered species and encourage avoidance of disturbance of the covered species and their habitats. Most importantly, the LCRA and LCRA TSC will maintain environmental flows included in their Water Management Plan and incorporate data from proposed applied research into the thermal tolerances of the covered species into an adaptive management process to provide conservation benefits to the species. The agreement also states that as new data become available regarding the flow needs of the covered species, the LCRA and LCRA TSC will integrate new scientific information in future amendments of their Water Management Plan.

We conclude that the additional regulatory and educational benefits of including these lands in the critical habitat designation are few, because the Act's requirements under section 7 will already apply on these private lands due to the known presence of the species. These benefits are further reduced by the existence of the LCRA Agreement. We anticipate that there would be little additional Federal regulatory benefit to the taxa on private land because there is a low likelihood that those parcels will be negatively affected to any significant degree by Federal activities requiring section 7 consultation, and ongoing management activities indicate there would be no additional requirements pursuant to a consultation that addresses critical habitat that would not already be in place due to the species' presence.

Furthermore, the potential educational and informational benefits of critical habitat designation on areas containing the PBFs essential to the conservation of the Texas pimpleback and the Texas fawnsfoot would be minimal, because the Lower Colorado River Authority has demonstrated their knowledge of the species and their habitat needs in the process of developing their partnerships with the Service.

In contrast, the benefits derived from excluding the areas managed by these owners and enhancing our partnership with the Lower Colorado River Authority is significant. Because voluntary conservation efforts for the benefit of species on non-Federal lands are so valuable, the Service considers

the maintenance and encouragement of conservation partnerships to be a significant benefit of exclusion. The development and maintenance of effective working partnerships with non-Federal partners for the conservation of at-risk species is particularly important in areas such as Texas, a State with relatively little Federal landownership and many species of conservation concern. Excluding these areas from critical habitat will help foster the partnerships in question that have been developed with Federal and State agencies and local conservation organizations and will encourage the continued implementation of voluntary conservation actions for the benefit of the Texas pimpleback, Texas fawnsfoot, and their habitats in the lower Colorado River Basin. The current active conservation efforts on some of these areas contribute to our knowledge of the species through monitoring and scientific research. In addition, these partnerships not only provide a benefit for the conservation of these species but may also serve as a model and aid in fostering future cooperative relationships with other parties in Texas and in other locations for the benefit of other endangered or threatened species.

We find that excluding areas from this critical habitat designation that are receiving both long-term conservation and management for the purpose of protecting the habitat that supports the Texas pimpleback and Texas fawnsfoot will preserve our external partnerships in Texas and will encourage future collaboration towards conservation and recovery of listed species. The partnership benefits are significant and outweigh the small potential regulatory, educational, and ancillary benefits of including the land in the final critical habitat designation for the Texas pimpleback or Texas fawnsfoot. Therefore, the LCRA Agreement provides greater protection of habitat for the Texas pimpleback and the Texas fawnsfoot than could be gained through the project-by-project analysis under a critical habitat designation.

Exclusion Will Not Result in Extinction of the Species—LCRA Agreement Proposed Units TXPB-6 and TXFF-6: We determined that the exclusion of 108.9 river mi (175.2 river km) of waterways adjacent to private land for the Texas pimpleback and 121.8 river mi (196.0 river km) of waterways adjacent to private land for the Texas fawnsfoot within the boundaries of the lower Colorado River Basin covered by the LCRA Agreement will not result in extinction of the taxa. Protections afforded to the species and

its habitat by the LCRA Agreement provide assurances that the species will not go extinct as a result of excluding these lands from the critical habitat designation.

An important consideration as we evaluate these exclusions and their potential effect on the species in question is that critical habitat does not carry with it a regulatory requirement to restore or actively manage habitat for the benefit of listed species; the regulatory effect of critical habitat is only the avoidance of destruction or adverse modification of critical habitat should an action with a Federal nexus occur. It is, therefore, advantageous for the conservation of the species to support the proactive efforts of non-Federal landowners who are contributing to the enhancement of essential habitat features for listed species through exclusion. The jeopardy standard of section 7 of the Act will also provide protection in these occupied areas when there is a Federal nexus. Therefore, based on the above discussion, the Secretary is exercising her discretion to exclude approximately 108.9 river mi (175.2 river km) of waterways from the designation of critical habitat for the Texas pimpleback and approximately 121.8 river mi (196.0 river km) of waterways from the designation of critical habitat for the Texas fawnsfoot.

Candidate Conservation Agreement With Assurances for Six Species in the Trinity River Basin

We have determined that the TRA Agreement fulfills the above criteria, through the following actions:

(i) The permittees (TRA, North Texas Municipal Water District, City of Dallas, City of Fort Worth) have implemented or are in the process of implementing conservation measures agreed upon as part of the CCAA, including, but not limited to, the continued implementation of large-scale watershed protection plans, participation in the U.S. Army Corps of Engineers Sustainable Rivers Project, and making proactive efforts to protect the aquatic environment. An example of this effort is the implementation of capital improvement programs that include watershed and sewer system modeling to ensure existing infrastructure meets future wastewater needs and reduces the risk of instream habitat degradation.

(ii) The finalized CCAA includes the Texas fawnsfoot as a covered species.

(iii) The CCAA specifically identifies conservation measures to be implemented within habitats included within proposed critical habitat stream reaches. This includes the

implementation of avoidance and minimization measures, maintenance of flows ensuring environmental flows protection, and applied research to inform future population restoration and stream and habitat management efforts.

Therefore, we have determined that the TRA Agreement fulfills the above criteria, and we are excluding certain Federal and non-Federal lands impacted or covered by this plan that provide for the conservation of the Texas fawnsfoot, as further explained below.

In 2023, the Trinity River Authority (TRA) and other permit applicants submitted the TRA Agreement as part of an application for an enhancement-of-survival permit under section 10(a)(1)(A) of the Act. The TRA Agreement benefits freshwater mussels and concurrently other native aquatic species in the Trinity River Basin through research and monitoring, minimization and avoidance of impacts, and conservation of Texas fawnsfoot populations and habitat. The Agreement is between the Trinity River Authority and the Service (collectively “the Parties”). The TRA Agreement covers eligible, non-Federal lands within the Trinity River Basin that are under the control of the Trinity River Authority, or their partners enrolled through certificates of inclusion (covered parties). Non-Federal lands are those lands owned by non-Federal landowners which include, but are not limited to, State, Tribal, regional, or local governments; private or nonprofit organizations; or private citizens. There are 3.4 river mi (5.5 river km) within the larger covered area of the TRA Agreement that are enrolled in the Wetland Reserve Enhancement Partnership (WREP) through the U.S. Department of Agriculture Natural Resources Conservation Service (USDA NRCS) While these river miles are outside of TRA’s authority and are not directly covered under the TRA Agreement, we anticipate that the TRA Agreement’s conservation benefits, in addition to the on-site conservation management activities implemented through the WREP will remain throughout those areas. This is because conservation actions implemented under the TRA Agreement are occurring directly upstream and downstream of those enrolled areas. These stream segments are 2 percent of the total area excluded from critical habitat designation.

The conservation goals of the TRA Agreement include reducing threats to freshwater mussels and improving the viability of Texas fawnsfoot. Under the TRA Agreement, covered parties will

avoid or minimize impacts to instream habitat used by the Texas fawnsfoot, will complete applied research and monitoring, will advocate for increased water quality and water quantity protections for the Texas fawnsfoot, and will assist with habitat conservation and restoration for the 10-year term of the TRA Agreement.

Expected outcomes of implementing the TRA Agreement include the conservation, restoration, and study of instream habitat; completion of studies that will guide future efforts to improve water quality and quantity and to reduce erosion and sedimentation; and research and monitoring to gain further understanding of existing Texas fawnsfoot populations and the threats to them throughout the term of the TRA Agreement. The conservation activities included in the TRA Agreement will increase the viability of Texas fawnsfoot by increasing the resiliency of Texas fawnsfoot populations in the Trinity River Basin. The TRA Agreement in its entirety can be found at: <https://www.fws.gov/media/20231026usfws-final-lcra-ccard-signedlcra-signedpdf>.

Benefits of Inclusion—TRA Agreement Proposed Units TXFF-7 and TXFF-8: The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure that actions that they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat, which is the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. In areas where a listed species occurs, Federal agencies must consult with the Service on actions that may affect a listed species, and refrain from actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some cases, the outcome of these analyses will be similar, because effects to habitat will often result in effects to the species. This situation applies to Units TXFF-7 and TXFF-8 for the Texas fawnsfoot because the species currently occupies the units considered for exclusion. Critical habitat designation may provide a regulatory benefit for the Texas fawnsfoot on areas covered under the TRA Agreement when there is a Federal nexus present for a project that might adversely modify critical habitat. The WREP program conservation activities focus on wetland restoration in areas that occur

adjacent to the river and do not include instream components. While there may be a Federal nexus for consultation on restoration activities, these activities will not occur within the Ordinary High Water Mark of the river, and therefore will not overlap the areas considered for exclusion.

In section 8.10 of the CCAA, TRA and the other applicants agree to implement avoidance and minimization measures for areas that include the covered species, which include reaches of the proposed critical habitat segments. These measures include (1) the avoidance of mussel beds within defined Conservation Priority Areas when the implementation of covered activities requires Clean Water Act (33 U.S.C. 1251 *et seq.*) section 404 permitting and consultation between the USACE and Service; (2) the completion of appropriate mussel surveys and relocations consistent with the latest Service and TPWD sampling protocols prior to initiating any site-level disturbances; and (3) implementation of appropriate erosion and sediment control measures, minimization of vegetation clearing in riparian zones and streambed disturbances (as feasible), and implementation of natural channel design into stream construction projects. Due to the implementation of these avoidance and minimization measures for the covered species and their habitats, as well as the agreement to complete appropriate mussel survey and relocation efforts, the benefit of including the proposed units in the critical habitat designation to further protect the species and its habitat via consultation is minimal.

Another possible benefit of designating lands as critical habitat is public education regarding the potential conservation value of an area that may help focus conservation efforts on areas of high conservation value. We consider any information about the Texas fawnsfoot and its habitats that reaches a wide audience, including parties engaged in conservation activities, to be valuable. Designation of critical habitat would provide educational benefits by informing Federal agencies and the public about the presence of Texas fawnsfoot in each unit. In summary, we find that the benefits of inclusion of approximately 169.3 river mi (272.5 river km) in proposed Units TXFF-7 and Unit TXFF-8 of waterways within the Trinity River Basin for the Texas fawnsfoot are: (1) A regulatory benefit when there is a Federal nexus present for a project that might adversely modify critical habitat; and (2) educational benefits for the Texas fawnsfoot and its habitat.

Benefits of Exclusion—TRA Agreement Proposed Units TXFF-7 and TXFF-8: The benefits of excluding 169.3 river mi (272.5 river km) in the Trinity River Basin for the Texas fawnsfoot under the TRA Agreement from the designation of critical habitat are substantial and include: (1) Continuance and strengthening of our effective working relationship with partners to promote voluntary, proactive conservation of the Texas fawnsfoot and its habitats as opposed to reactive regulation; (2) allowance for continued meaningful collaboration and cooperation in working toward species recovery, including conservation benefits that might not otherwise occur; and (3) encouragement of developing additional conservation and management plans in the future for other federally listed and sensitive species.

According to some, the designation of critical habitat on (or adjacent to) private lands may reduce the likelihood that landowners will support and carry out conservation actions (Main et al. 1999, pp. 1,263–1265; Bean 2002, p. 412). The magnitude of this negative outcome is greatly amplified in situations where active management measures (such as reintroduction, fire management, and control of invasive species) are necessary for species conservation (Bean 2002, pp. 412–414). We find that the exclusion of these specific areas from the critical habitat designation for the Texas fawnsfoot can contribute to the species' recovery and provide a superior level of conservation than critical habitat can provide alone. We find that, where consistent with the discretion provided by the Act, it is necessary to implement policies that provide positive incentives to private landowners to voluntarily conserve natural resources and remove or reduce disincentives to conservation (Wilcove et al. 1996, pp. 1–15; Bean 2002, entire).

Additionally, partnerships with non-Federal landowners are vital to the conservation of at-risk species, especially on non-Federal lands; therefore, the Service is committed to supporting and encouraging such partnerships through the recognition of positive conservation contributions. In the case considered here, excluding these areas from critical habitat will help foster the partnerships that landowners and land managers have developed with Federal and State agencies and local conservation organizations; will encourage the continued implementation of voluntary conservation actions for the benefit of the Texas fawnsfoot and its habitat on these lands; and may also serve as a

model and aid in fostering future cooperative relationships with other parties here and in other locations for the benefit of other endangered or threatened species. Therefore, we consider the positive effect of excluding from critical habitat designation those areas managed by active conservation partners to be a significant benefit of exclusion.

Benefits of Exclusion Outweigh the Benefits of Inclusion—TRA Agreement Proposed Units TXFF-7 and TXFF-8: We evaluated the exclusion of 169.3 river mi (272.5 river km) of waterways for the Texas fawnsfoot within the areas covered by the TRA Agreement from our designation of critical habitat, and we determined the benefits of excluding these areas outweigh the benefits of including them as critical habitat for the Texas fawnsfoot.

The TRA CCAA includes a variety of management, communication and education, and applied research conservation measures targeting these excluded critical habitat units. Some of these measures include, but are not limited to, the guaranteed continuation of an instream water quality sampling program that can aid in identifying potential external threats to the covered species or opportunities to implement operational changes that would improve water quality conditions for the covered species. As part of the CCAA, the TRA and other permit applicants also committed to increasing public awareness of the covered species and the threats they face through the development and dissemination of a conservation message, materials, and curricula. These will include language notifying the responsible parties of the likelihood of the presence of the covered species and will encourage avoidance of disturbance of the covered species and their habitats. Most importantly, the TRA Agreement commits to maintaining environmental flows within the basin and includes the implementation of instream flow protections between Lake Livingston and the Coastal Water Authority canal. This targeted effort will ensure there are adequate flows for an 86.5-mile stretch of the Trinity River during times of drought conditions. The TRA Agreement also states that as new data become available regarding the flow needs of the covered species, they will integrate new scientific information in future amendments of their Water Management Plan.

We conclude that the additional regulatory and educational benefits of including these lands in the critical habitat designation are few, because the Act's requirements under section 7 will

already apply on these private lands due to the known presence of the species. These benefits are further reduced by the existence of the TRA Agreement. We anticipate that there would be little additional Federal regulatory benefit to the species on private land because there is a low likelihood that those parcels will be negatively affected to any significant degree by Federal activities requiring section 7 consultation, and ongoing management activities indicate there would be no additional requirements pursuant to a consultation that addresses critical habitat that would not already be in place due to the species' presence.

Furthermore, the potential educational and informational benefits of critical habitat designation on areas containing the PBFs essential to the conservation of the Texas fawnsfoot would be minimal, because the Trinity River Authority has demonstrated its knowledge of the species and the species' habitat needs in the process of developing its partnership with the Service.

In contrast, the benefits derived from excluding the areas managed by TRA and enhancing our partnership with TRA is significant. Because voluntary conservation efforts for the benefit of species on non-Federal lands are so valuable, the Service considers the maintenance and encouragement of conservation partnerships to be a significant benefit of exclusion. The development and maintenance of effective working partnerships with non-Federal partners for the conservation of at-risk species is particularly important in areas such as Texas, a State with relatively little Federal land ownership and many species of conservation concern. Excluding these areas from critical habitat will help foster the partnerships that have been developed with Federal and State agencies and local conservation organizations and will encourage the continued implementation of voluntary conservation actions for the benefit of the Texas fawnsfoot and its habitats in the Trinity River Basin. The current active conservation efforts on these areas contribute to our knowledge of the species through monitoring and scientific research. In addition, these partnerships not only provide a benefit for the conservation of the Texas fawnsfoot but may also serve as a model and aid in fostering future cooperative relationships with other parties in Texas and in other locations for the benefit of other endangered or threatened species.

We find that excluding areas from critical habitat designation that are

receiving both long-term conservation and management for the purpose of protecting the habitat that supports the Texas fawnsfoot will preserve our external partnerships in Texas and will encourage future collaboration towards conservation and recovery of listed species. The partnership benefits are significant and outweigh the small potential regulatory, educational, and ancillary benefits of including the areas in the final critical habitat designation for the Texas fawnsfoot. Therefore, the TRA Agreement provides greater protection of habitat for the Texas fawnsfoot than could be gained through the project-by-project analysis under a critical habitat designation.

Exclusion Will Not Result in Extinction of the Species—TRA Agreement Proposed Units TXFF-7 and TXFF-8: We determined that the exclusion of 169.3 river mi (272.5 river km) of waterways for the Texas fawnsfoot within the boundaries of the Trinity River Basin covered by the TRA Agreement will not result in extinction

of the species. Protections afforded to the species and its habitat by the TRA Agreement provide assurances that the species will not go extinct as a result of excluding these lands from the critical habitat designation.

An important consideration as we evaluate these exclusions and their potential effect on the species in question is that critical habitat does not carry with it a regulatory requirement to restore or actively manage habitat for the benefit of listed species; the regulatory effect of critical habitat is only the avoidance of destruction or adverse modification of critical habitat should an action with a Federal nexus occur. It is, therefore, advantageous for the conservation of the species to support the proactive efforts of non-Federal landowners who are contributing to the enhancement of essential habitat features for listed species through exclusion. The jeopardy standard of section 7 of the Act will also provide protection in these occupied areas when there is a Federal nexus.

Therefore, based on the above discussion, the Secretary is exercising her discretion to exclude approximately 169.3 river mi (272.5 river km) of waterways from the designation of critical habitat for the Texas fawnsfoot.

Summary of Exclusions

As discussed above, based on the information provided by entities seeking exclusion, existence of private or non-Federal conservation plans, as well as any additional public comments we received, we evaluated whether certain lands in the proposed critical habitat were appropriate for exclusion from this final designation pursuant to section 4(b)(2) of the Act. We are excluding certain areas from critical habitat designation for the Texas fawnsfoot, Texas pimpleback, and Balcones spike; table 16, below, provides the approximate areas (mi, km) that meet the definition of critical habitat but which we are excluding under section 4(b)(2) of the Act from the final critical habitat designation.

TABLE 16—AREAS EXCLUDED BY CRITICAL HABITAT UNIT FOR TEXAS FAWNSFOOT, TEXAS PIMPLEBACK, AND BALCONES SPIKE

Species	Unit	Subunit	Proposed critical habitat (mi (km))	Area excluded (mi (km))	Final critical habitat (mi (km))
Texas fawnsfoot	TXFF-3: Lower Brazos River	TXFF-3a: Lower Brazos River	340.5 (548.0)	340.5 (548.0)s	0
		TXFF-3b: Navasota River	38.5 (62.0)	38.5 (62.0)	0
	TXFF-4: Little River	TXFF-4a: Little River	34.8 (56.0)	34.8 (56.0)	0
		TXFF-4b: Little River	121.8 (196.0)	121.8 (196.0)	0
	TXFF-7: East Fork Trinity River	TXFF-7a: East Fork Trinity River	15.4 (24.8)	15.4 (24.8)	0
		TXFF-7b: East Fork Trinity River	153.9 (247.7)	153.9 (247.7)	0
Texas pimpleback	TXPB-6: Lower Colorado River	TXPB-6a: Lower Colorado River	108.9 (175.2)	108.9 (175.2)	0
		TXPB-6b: Lower Colorado River	34.8 (56.0)	34.8 (56.0)	0
Balcones spike	BASP-1: Little River	BASP-1a: Little River	30.7 (49.4)	30.7 (49.4)	0
		BASP-1b: San Gabriel River	13.7 (22.1)	13.7 (22.1)	0
		BASP-1c: Brushy Creek	13.7 (22.1)	13.7 (22.1)	0

Required Determinations

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

Executive Order (E.O.) 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866, E.O. 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and

appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

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

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 et seq.), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small

entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500

employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term “significant economic impact” is meant to apply to a typical small business firm’s business operations.

Under the RFA, as amended, as understood in light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. The RFA does not require evaluation of the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities will be directly regulated by this rulemaking, we certify that this critical habitat designation will not have a significant economic impact on a substantial number of small entities.

During the development of this final rule, we reviewed and evaluated all information submitted during the comment period on the proposed rule (86 FR 47916; August 26, 2021) that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Based on this information, we affirm our certification that this critical habitat designation will not have a significant economic impact on a substantial

number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects “to the extent permitted by law” when undertaking actions identified as significant energy actions (66 FR 28355; May 22, 2001). E.O. 13211 defines a “significant energy action” as an action that (i) is a significant regulatory action under E.O. 12866 (or any successor order, including most recently E.O. 14094 (88 FR 21879; Apr. 11, 2023)); and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule is not a significant regulatory action under E.O. 12866 or 14094. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

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

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we make the following finding:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both “Federal intergovernmental mandates” and “Federal private sector mandates.” These terms are defined in 2 U.S.C. 658(5)–(7). “Federal intergovernmental mandate” includes a regulation that “would impose an enforceable duty upon State, local, or Tribal governments” with two exceptions. It excludes “a condition of Federal assistance.” It also excludes “a duty arising from participation in a voluntary Federal program,” unless the regulation “relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority,” if the provision would “increase the stringency of conditions of assistance” or “place caps upon, or otherwise decrease, the Federal Government’s responsibility to provide funding,” and the State, local, or Tribal governments “lack authority” to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social

Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. “Federal private sector mandate” includes a regulation that “would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.”

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions are not likely to destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because many of the public lands being designated as critical habitat are owned by the State of Texas. This government entity does not fit the definition of “small governmental jurisdiction.” Therefore, a Small Government Agency Plan is not required. Additionally, the public areas not owned by the State of Texas that are being designated as critical habitat are not likely to have a Federal nexus requiring section 7 consultation on designated critical habitat.

Takings—Executive Order 12630

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for the central Texas mussels in a takings implications assessment. The Act does not authorize us to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land

ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed and concludes that this designation of critical habitat for the central Texas mussels does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, this final rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical or biological features of the habitat necessary for the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist State and local governments in long-range planning because they no longer have to wait for case-by-case section 7 consultations to occur.

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act will be required. While non-Federal entities

that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this final rule identifies the physical or biological features essential to the conservation of the species. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

Regulations adopted pursuant to section 4(a) of the Act are exempt from the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) and do not require an environmental analysis under NEPA. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations and species-specific protective regulations promulgated concurrently with a decision to list or reclassify a species as threatened. The courts have upheld this position (e.g., *Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995) (critical habitat); *Center for Biological Diversity v. U.S. Fish and Wildlife Service*, 2005 WL 2000928 (N.D. Cal. Aug. 19, 2005) (concurrent 4(d) rule)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. In accordance with Secretaries' Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have determined that no Tribal lands fall within the boundaries of the critical habitat designation for the central Texas mussels, so no Tribal lands will be affected by this designation.

References Cited

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

Authors

The primary authors of this final rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Austin Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

■ 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by adding entries for “Fatmucket, Guadalupe”; “Fatmucket, Texas”; “Fawnsfoot, Texas”; “Orb,

Guadalupe”; “Pimpleback, Texas”; “Spike, Balcones”; and “Spike, False” in alphabetical order under CLAMS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
CLAMS				
*	*	*	*	*
Fatmucket, Guadalupe	<i>Lampsilis bergmanni</i>	Wherever found	E	89 FR [INSERT Federal Register PAGE WHERE THE DOCUMENT BEGINS], June 4, 2024; 50 CFR 17.95(f). ^{CH}
Fatmucket, Texas	<i>Lampsilis bracteata</i>	Wherever found	E	89 FR [INSERT Federal Register PAGE WHERE THE DOCUMENT BEGINS], June 4, 2024; 50 CFR 17.95(f). ^{CH}
Fawnsfoot, Texas	<i>Truncilla macrodon</i>	Wherever found	T	89 FR [INSERT Federal Register PAGE WHERE THE DOCUMENT BEGINS], June 4, 2024; 50 CFR 17.45(c); ^{4d} 50 CFR 17.95(f). ^{CH}
*	*	*	*	*
Orb, Guadalupe	<i>Cyclonaias necki</i>	Wherever found	E	89 FR [INSERT Federal Register PAGE WHERE THE DOCUMENT BEGINS], June 4, 2024; 50 CFR 17.95(f). ^{CH}
*	*	*	*	*
Pimpleback, Texas	<i>Cyclonaias petrina</i>	Wherever found	E	89 FR [INSERT Federal Register PAGE WHERE THE DOCUMENT BEGINS], June 4, 2024; 50 CFR 17.95(f). ^{CH}
*	*	*	*	*
Spike, Balcones	<i>Fusconaia iheringi</i>	Wherever found	E	89 FR [INSERT Federal Register PAGE WHERE THE DOCUMENT BEGINS], June 4, 2024; 50 CFR 17.95(f). ^{CH}
Spike, false	<i>Fusconaia mitchelli</i>	Wherever found	E	89 FR [INSERT Federal Register PAGE WHERE THE DOCUMENT BEGINS], June 4, 2024; 50 CFR 17.95(f). ^{CH}
*	*	*	*	*

■ 3. Amend § 17.45 by adding a paragraph (c) to read as follows:

§ 17.45 Species-specific rules—snails and clams.

* * * * *

(c) Texas fawnsfoot (*Truncilla macrodon*).

(1) *Prohibitions.* The following prohibitions that apply to endangered wildlife also apply to Texas fawnsfoot. Except as provided under paragraph (c)(2) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to

be committed, any of the following acts in regard to the Texas fawnsfoot:

(i) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife.

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(iv) Interstate or foreign commerce in the course of commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *Exceptions from prohibitions.* In regard to this species, you may:

(i) Conduct activities as authorized by a permit under § 17.32.

(ii) Take, as set forth at § 17.21(c)(2) through (c)(4) for endangered wildlife.

(iii) Take as set forth at § 17.31(b).

(iv) Possess and engage in other acts with unlawfully taken Texas fawnsfoot, as set forth at § 17.21(d)(2) for endangered wildlife.

(v) Take incidental to an otherwise lawful activity caused by:

(A) Channel restoration projects that create natural, physically stable, ecologically functioning streams (or stream and wetland systems) that are reconnected with their groundwater aquifers. To qualify for the exception in this paragraph (c)(2)(v)(A), a channel

restoration project must satisfy all applicable Federal, State, and local permitting requirements. In addition, at least 30 days prior to commencing actual construction within an area designated as critical habitat for the Texas fawnsfoot (see 50 CFR 17.95(f)), notice must be provided to the Service, through the Austin Ecological Services Field Office, of the location and nature of the proposed work to allow the Service to make arrangements for surveys and potential relocation of any mussels that might be adversely affected. You may obtain field office contact information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(B) Bioengineering methods for streambank stabilization using native live stakes (live, vegetative cuttings inserted or tamped into the ground in a manner that allows the stake to take root and grow), native live fascines (live branch cuttings, usually willows, bound together into long, cigar-shaped bundles), or native brush layering (cuttings or branches of easily rooted tree species layered between successive lifts of soil fill). Methods that include the use of quarried rock (riprap) for more than 25 percent of the area within the streambanks or include the use of rock baskets or gabion structures do not qualify for the exception in this paragraph (c)(2)(v)(B). In addition, to reduce streambank erosion and sedimentation into the stream, work using these bioengineering methods qualifies for the exception in this paragraph (c)(2)(v)(B) only if it is performed during base-flow or low-water conditions and when significant rainfall likely to result in significant runoff is not predicted at or upstream of the area where work is proposed for a period of at least 3 days after the work is scheduled to be undertaken. Further, streambank stabilization projects that involve the placement or use of equipment in the stream channels or water do not qualify for the exception in this paragraph (c)(2)(v)(B). To qualify for the exception in this paragraph (c)(2)(v)(B), a project using bioengineering methods must satisfy all applicable Federal, State, and local permitting requirements.

(C) Soil and water conservation practices and riparian and adjacent upland habitat management activities that restore in-stream habitats for the species, restore adjacent riparian habitats that enhance stream habitats for the species, stabilize degraded and eroding stream banks to limit sedimentation and scour of the species' habitats, restore or enhance nearby

upland habitats to limit sedimentation of the species' habitats, and comply with conservation practice standards and specifications and with technical guidelines developed by the Natural Resources Conservation Service for application of the affected habitat types. In addition, at least 30 days prior to commencing soil and water conservation practices within an area designated as critical habitat for the Texas fawnsfoot (see 50 CFR 17.95(f)), notice must be provided to the Service, through the Austin Ecological Services Field Office, of the location and nature of the proposed work to allow the Service to make arrangements for surveys and potential relocation of any mussels that might be adversely affected. You may obtain field office contact information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(D) Presence or abundance surveys for Texas fawnsfoot conducted by individuals who successfully complete and show proficiency by passing the end-of-course test with a score equal to or greater than 90 percent, with 100 percent accuracy in identification of mussel species listed under the Endangered Species Act, in an approved freshwater mussel identification and sampling course (specific to the species and basins in which the Texas fawnsfoot is known to occur), such as that administered by the Service, a State wildlife agency, or qualified university experts. Those individuals exercising the exemption in this paragraph (c)(2)(v)(D) should provide reports to the Service annually on number, location, and date of collection. The exemption in this paragraph (c)(2)(v)(D) does not apply if lethal take or collection is anticipated. The exemption in this paragraph (c)(2)(v)(D) only applies for 5 years from the date of successful course completion.

* * * * *

■ 4. In § 17.95, amend paragraph (f) by:

- a. Adding entries for “Guadalupe Fatmucket (*Lampsilis bergmanni*)”, “Texas Fatmucket (*Lampsilis bracteata*)”, and “Texas Fawnsfoot (*Truncilla macrodon*)” immediately following the entry for “Appalachian Elktoe (*Alasmidonta raveneliana*)”;
- b. Adding an entry for “Guadalupe Orb (*Cyclonaias necki*)” immediately following the entry for “Carolina Heelsplitter (*Lasmigona decorata*)”; and
- c. Adding entries for “Texas Pimpleback (*Cyclonaias petrina*)”, “Balcones Spike (*Fusconaia iheringi*)”, and “False Spike (*Fusconaia mitchelli*)” immediately following the entry for

“Georgia Pigtoe (*Pleurobema hanleyianum*)”.

The additions read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(f) *Clams and Snails.*

* * * * *

Guadalupe Fatmucket (*Lampsilis bergmanni*)

(1) A critical habitat unit is depicted for Kendall and Kerr Counties, Texas, on the map in this entry.

(2) Within this area, the physical or biological features essential to the conservation of Guadalupe fatmucket consist of the following components within waters and streambeds up to the ordinary high-water mark:

(i) Flowing water at moderate to high rates with sufficient depth to remain sufficiently cool and oxygenated during low-flow periods;

(ii) Substrate including bedrock and boulder crevices, point bars, and vegetated run habitat comprising sand, gravel, and larger cobbles;

(iii) Green sunfish (*Lepomis cyanellus*), bluegill (*L. macrochirus*), largemouth bass (*Micropterus salmoides*), and Guadalupe bass (*M. treculii*) present; and

(iv) Water quality parameters within the following ranges:

(A) Dissolved oxygen greater than 2 milligrams per liter (mg/L);

(B) Salinity less than 2 parts per thousand;

(C) Total ammonia less than 0.77 mg/L total ammonia nitrogen;

(D) Water temperature below 29 °C (84.2 °F); and

(E) Low levels of contaminants.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 5, 2024.

(4) Data layers defining the map unit were created on a base of U.S. Geological Survey digital ortho-photo quarter-quadrangles, and the critical habitat unit was then mapped using Universal Transverse Mercator (UTM) Zone 14N coordinates. The map in this entry, as modified by any accompanying regulatory text, establishes the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is based are available to the public at the Service's internet site at <https://www.fws.gov/office/austin-ecological-services>, at <https://www.regulations.gov> at Docket No. FWS-R2-ES-2019-0061, and at the field office responsible for this designation. You may obtain field office location information by

contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Unit GUFM-1: Guadalupe River Unit; Kendall and Kerr Counties, Texas.

(i) Unit GUFM-1 consists of three subunits:

(A) Subunit GUFM-1a (North Fork Guadalupe River) consists of 6.9 river miles (mi) (11.0 kilometers (km)) in Kerr County, Texas. All of the riparian lands

that border this subunit are in private ownership.

(B) Subunit GUFM-1b (Johnson Creek) consists of 10.1 river mi (16.3 km) in Kerr County, Texas. All of the riparian lands that border this subunit are in private ownership.

(C) Subunit GUFM-1c (Guadalupe River) consists of 35.2 river mi (56.7 km) in Kendall and Kerr Counties, Texas. This subunit is composed of lands in

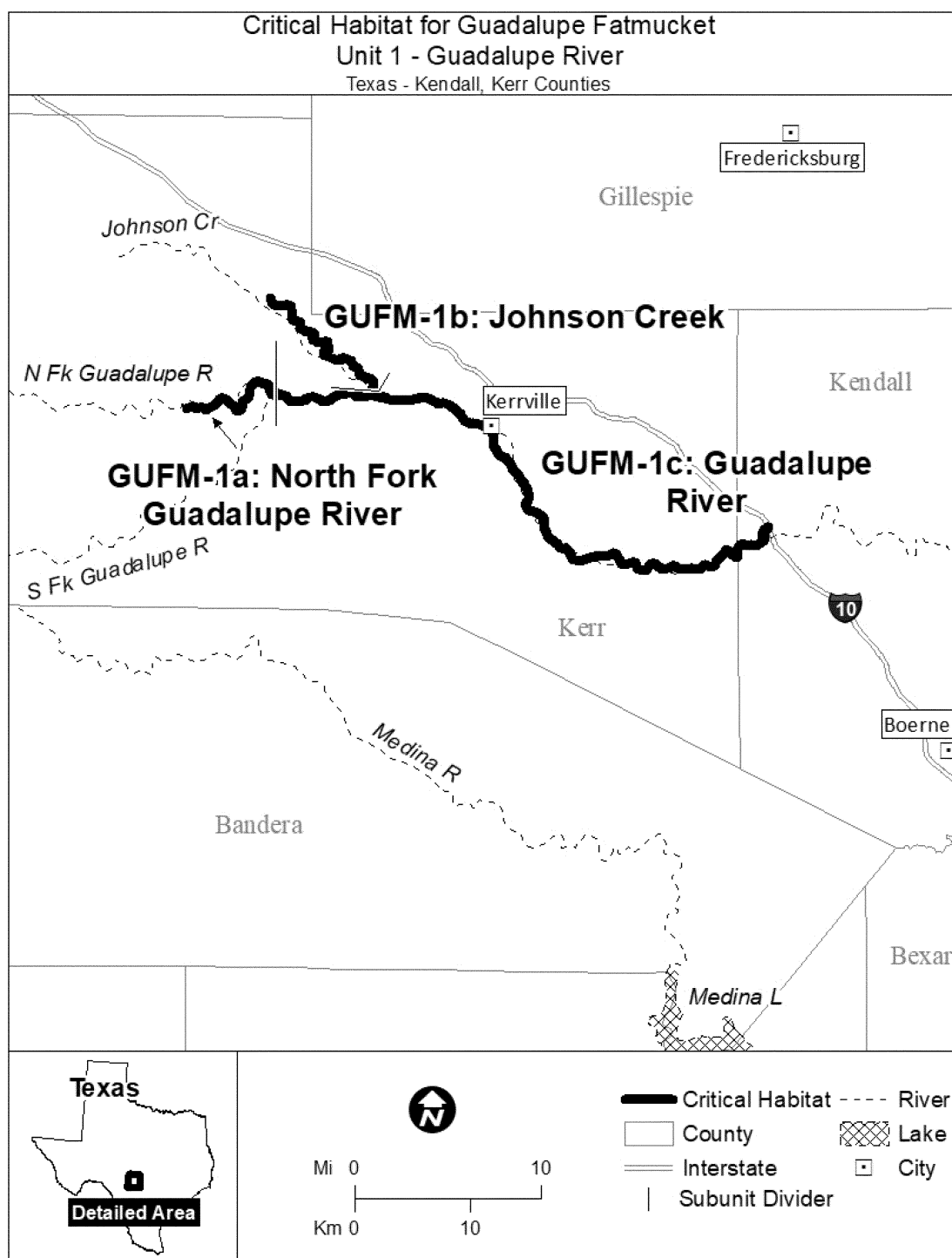
State/local government (7 percent) and private (93 percent) ownership.

(ii) Unit GUFM-1 includes stream channel up to bankfull height.

(iii) Map of Unit GUFM-1 follows:

Figure 1 to Guadalupe Fatmucket (*Lampsilis bergmanni*) paragraph (5)(iii)

BILLING CODE 4333-15-P



BILLING CODE 4333-15-C

Texas Fatmucket (*Lampsilis bracteata*)

(1) Critical habitat units are depicted for Blanco, Gillespie, Hays, Kimble, Llano, Mason, McCulloch, Menard, Runnels, San Saba, Sutton, and Travis Counties, Texas, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of Texas fatmucket consist of the following components within waters and streambeds up to the ordinary high-water mark:

(i) Flowing water at moderate to high rates with sufficient depth to remain sufficiently cool and oxygenated during low-flow periods;

(ii) Substrate including bedrock and boulder crevices, point bars, and vegetated run habitat comprising sand, gravel, and larger cobbles;

(iii) Green sunfish (*Lepomis cyanellus*), bluegill (*L. macrochirus*),

largemouth bass (*Micropterus salmoides*), and Guadalupe bass (*M. treculii*) present; and

(iv) Water quality parameters within the following ranges:

(A) Dissolved oxygen greater than 2 milligrams per liter (mg/L);

(B) Salinity less than 2 parts per thousand;

(C) Total ammonia less than 0.77 mg/L total ammonia nitrogen;

(D) Water temperature below 29 °C (84.2 °F); and

(E) Low levels of contaminants.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 5, 2024.

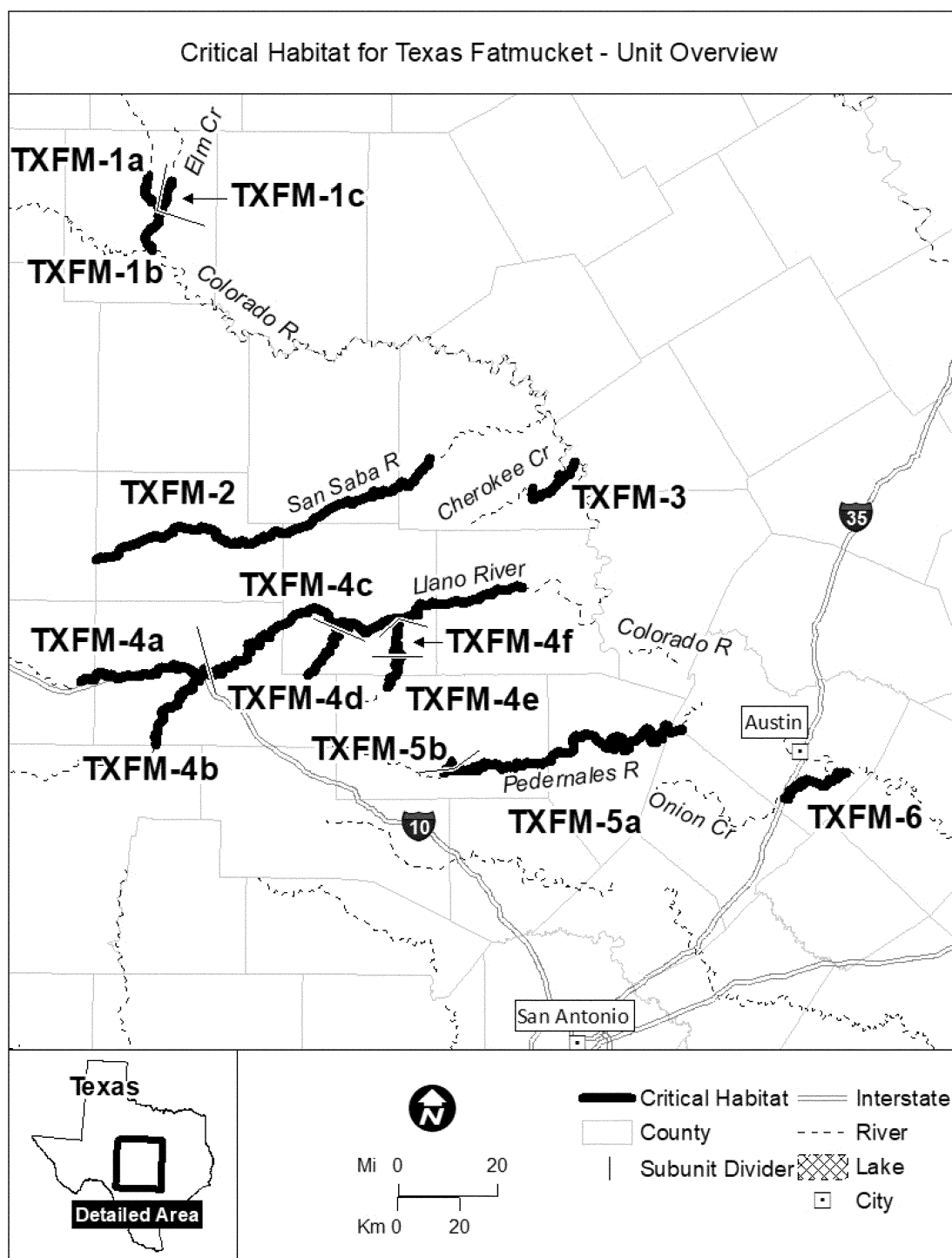
(4) Data layers defining the map units were created on a base of U.S. Geological Survey digital ortho-photo quarter-quadrangles, and the critical

habitat units were then mapped using Universal Transverse Mercator (UTM) Zone 14N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which the maps are based are available to the public at the Service's internet site at <https://www.fws.gov/office/austin-ecological-services>, at <https://www.regulations.gov> at Docket No. FWS-R2-ES-2019-0061, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Index map of critical habitat units for the Texas fatmucket follows:

Figure 1 to Texas Fatmucket (*Lampsilis bracteata*) paragraph (5)

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(6) Unit TXFM-1: Elm Creek Unit; Runnels County, Texas.

(i) Unit TXFM-1 consists of three subunits:

(A) Subunit TXFM-1a (Bluff Creek) consists of 11.6 river miles (mi) (18.7 river kilometers (km)) in Runnels County, Texas. All of the riparian lands that border this subunit are in private ownership.

(B) Subunit TXFM-1b (Lower Elm Creek) consists of 12.3 river mi (19.8 km) in Runnels County, Texas. This subunit is composed of lands in State/local government (3 percent) and private (97 percent) ownership.

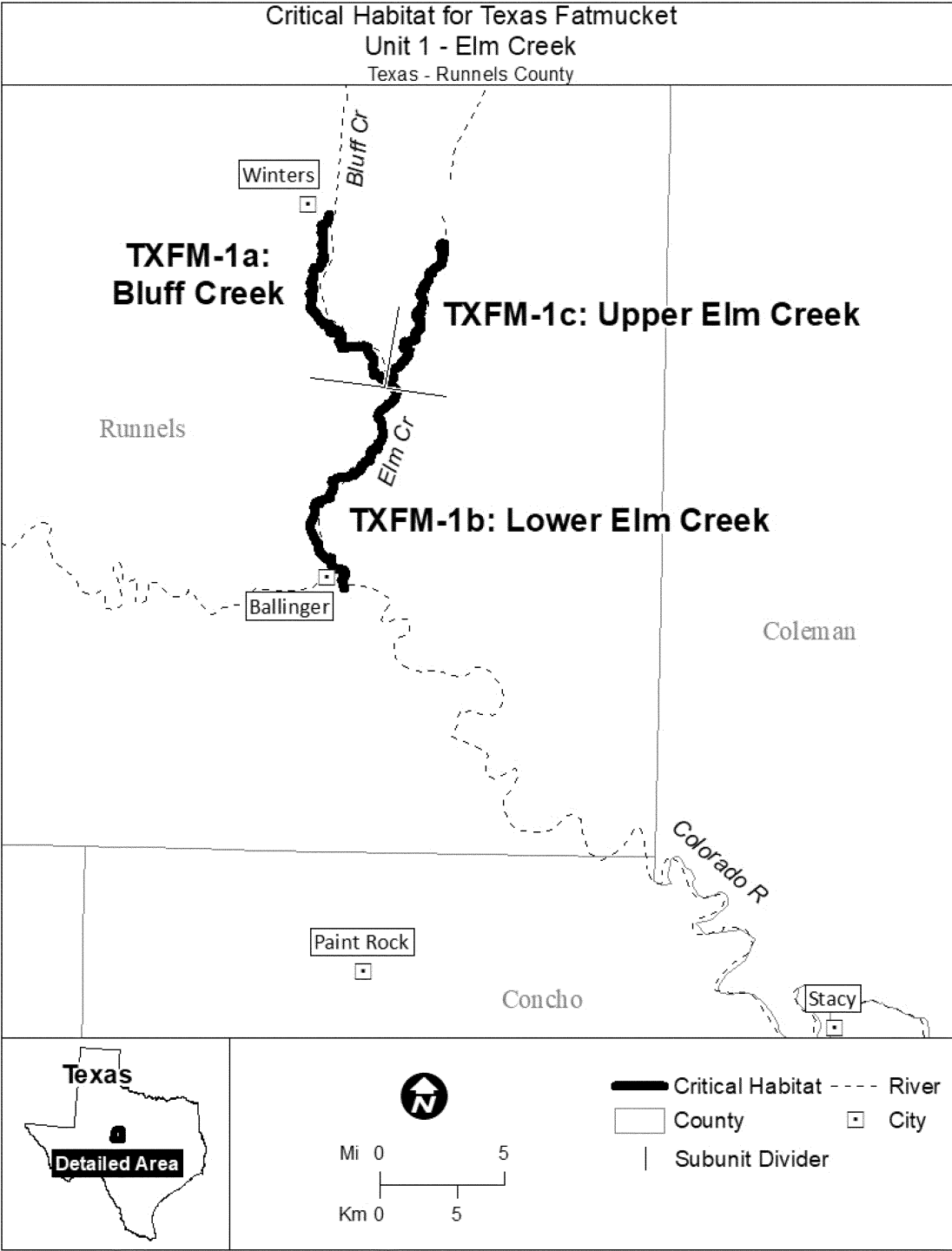
(C) Subunit TXFM-1c (Upper Elm Creek) consists of 8.9 river mi (14.4 km) in Runnels County, Texas. All of the

riparian lands that border this subunit are in private ownership.

(ii) Unit TXFM-1 includes stream channel up to bankfull height.

(iii) Map of Unit TXFM-1 follows:

Figure 2 to Texas Fatmucket (*Lampsilis bracteata*) paragraph (6)(iii)



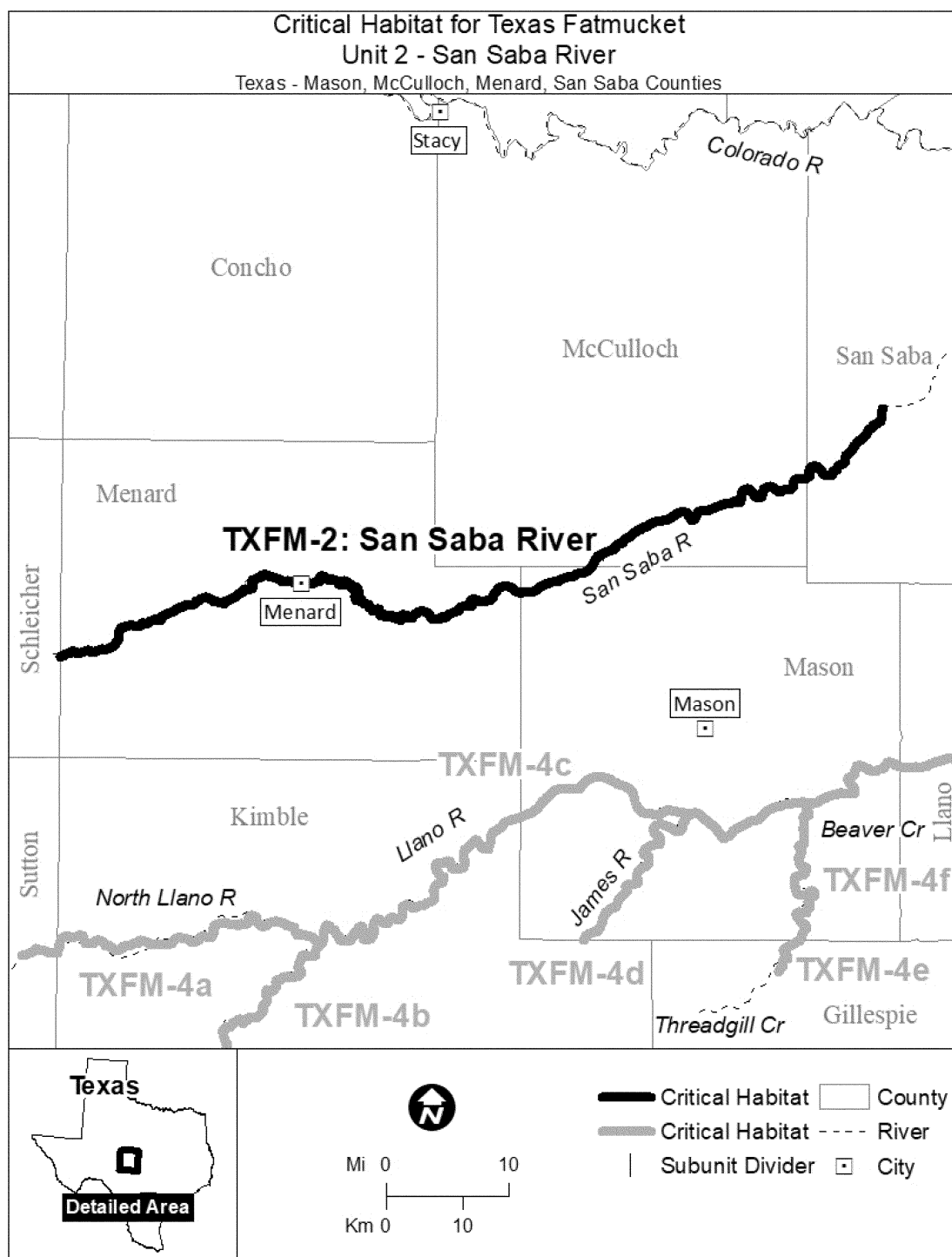
(7) Unit TXFM–2: San Saba River Unit; Mason, McCulloch, Menard, and San Saba Counties, Texas.

(i) Unit TXFM–2 consists of 90.8 river mi (146.1 km) in Mason, McCulloch,

Menard, and San Saba Counties, Texas. All of the riparian lands that border this unit are in private ownership.

(ii) Unit TXFM–2 includes stream channel up to bankfull height.

(iii) Map of TXFM–2 follows: Figure 3 to Texas Fatmucket (*Lampsilis bracteata*) paragraph (7)(iii)



(8) Unit TxFM-3: Cherokee Creek Unit; San Saba County, Texas.

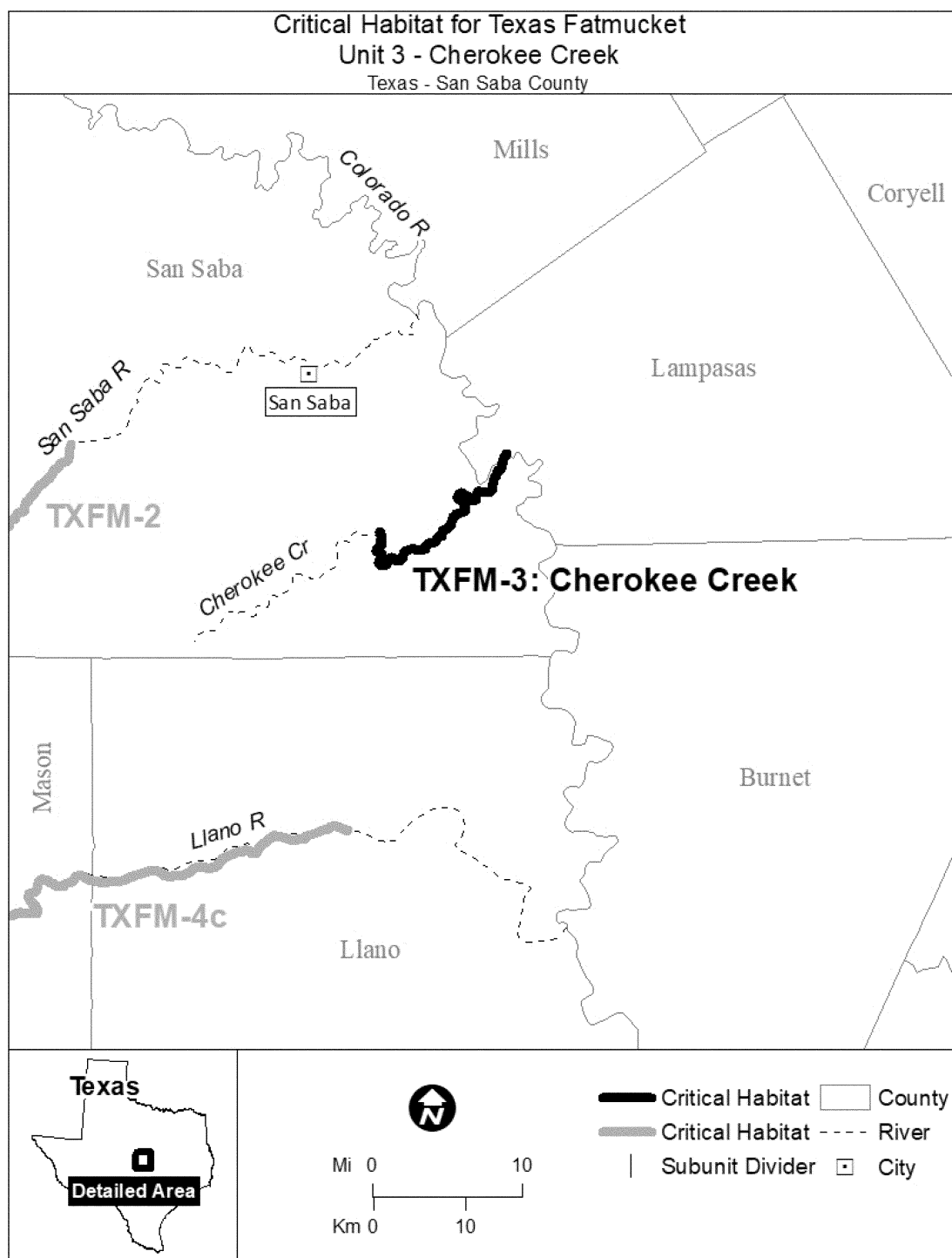
(i) Unit TxFM-3 consists of 17.8 river mi (28.6 km) in San Saba County, Texas.

All of the riparian lands that border this unit are in private ownership.

(ii) Unit TxFM-3 includes stream channel up to bankfull height.

(iii) Map of Unit TxFM-3 follows:

Figure 4 to Texas Fatmucket (*Lampsilis bracteata*) paragraph (8)(iii)



(9) Unit TxFM-4: Llano River Unit; Gillespie, Kimble, Llano, Mason, and Sutton Counties, Texas.

(i) Unit TxFM-4 consists of six subunits:

(A) Subunit TxFM-4a (North Llano River) consists of 30.2 river mi (48.7 km) in Sutton and Kimble Counties, Texas. All of the riparian lands that border this subunit are in private ownership.

(B) Subunit TxFM-4b (South Llano River) consists of 22.5 river mi (36.2 km)

in Kimble County, Texas. This subunit is composed of lands in State/local government (10 percent) and private (90 percent) ownership.

(C) Subunit TxFM-4c (Llano River) consists of 90.9 river mi (146.4 km) in Kimble, Llano, and Mason Counties, Texas. This subunit is composed of lands in State/local government (0.5 percent) and private (99.5 percent) ownership.

(D) Subunit TxFM-4d (James River) consists of 18.3 river mi (29.4 km) in Kimble and Mason Counties, Texas. All of the riparian lands that border this subunit are in private ownership.

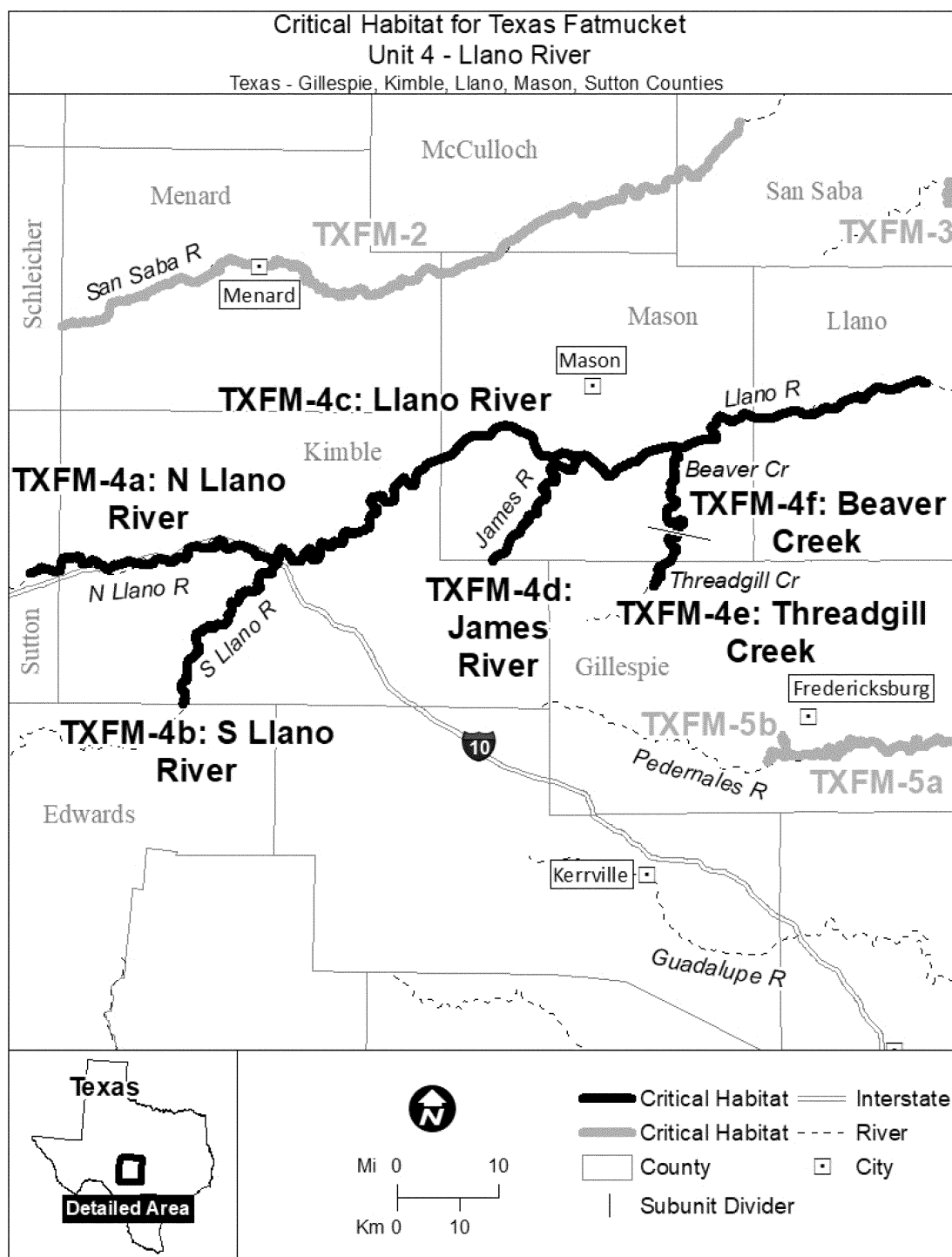
(E) Subunit TxFM-4e (Threadgill Creek) consists of 8.1 river mi (13.1 km) in Gillespie and Mason Counties, Texas. All of the riparian lands that border this subunit are in private ownership.

(F) Subunit TxFM-4f (Beaver Creek) consists of 12.7 river mi (20.5 km) in

Mason County, Texas. All of the riparian lands that border this subunit are in private ownership.

- (ii) Unit TXFM-4 includes stream channel up to bankfull height.
(iii) Map of Unit TXFM-4 follows:

Figure 5 to Texas Fatmucket (*Lampsilis bracteata*) paragraph (9)(iii)



(10) Unit TXFM-5: Pedernales River Unit: Blanco, Gillespie, Hays, and Travis Counties, Texas.

(i) Unit TXFM-5 consists of two subunits:

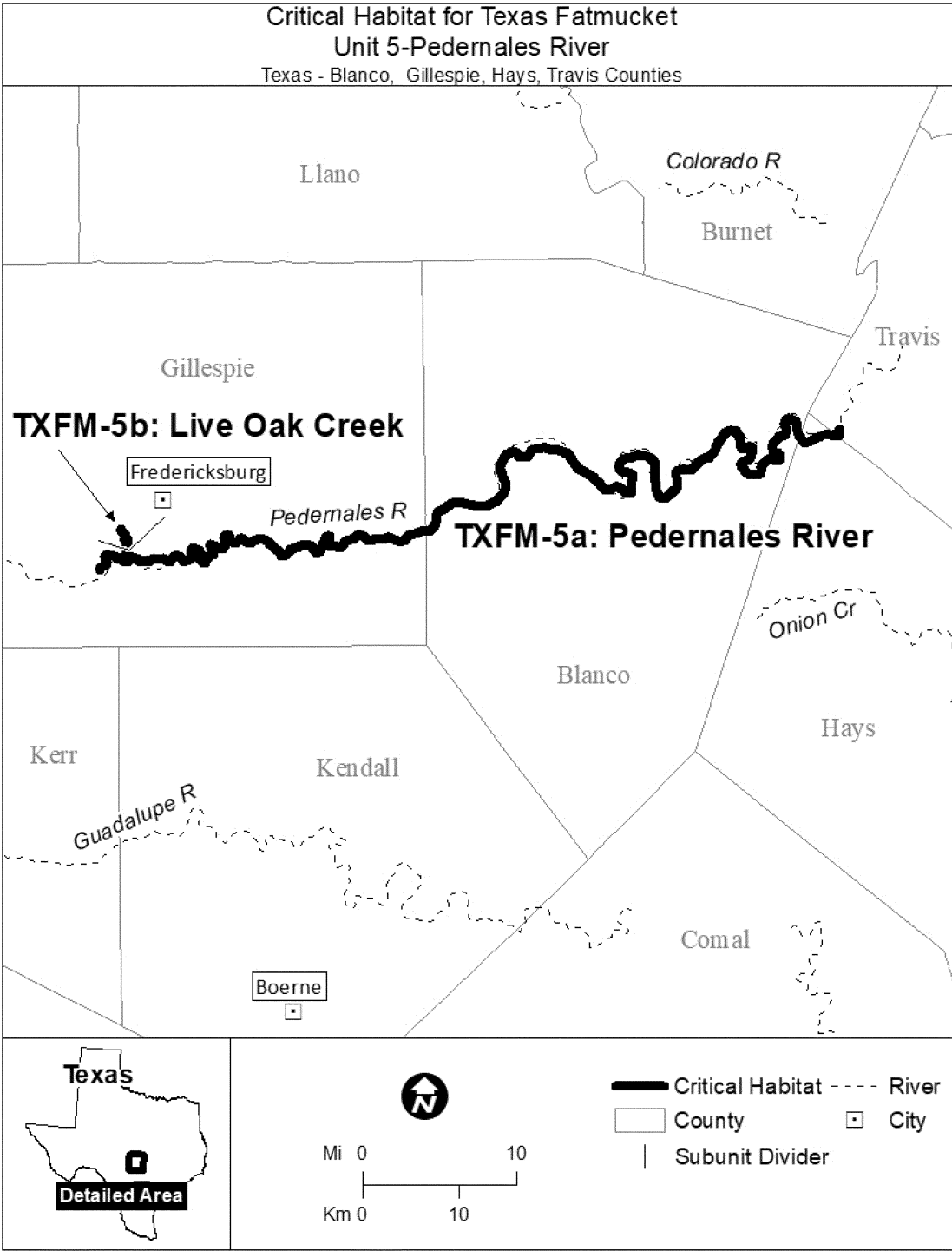
(A) Subunit TXFM-5a (Pedernales River) consists of 78.2 river mi (125.8

km) in Blanco, Gillespie, Hays, and Travis Counties, Texas. This subunit is composed of lands in State/local government (10 percent), Federal Government (3 percent), and private (87 percent) ownership.

(B) Subunit TXFM-5b (Live Oak Creek) consists of 2.6 river mi (4.2 km) in Gillespie County, Texas. This subunit is composed of lands in State/local government (54 percent) and private (46 percent) ownership.

- (ii) Unit TXFM-5 includes stream channel up to bankfull height.
- (iii) Map of Unit TXFM-5 follows:

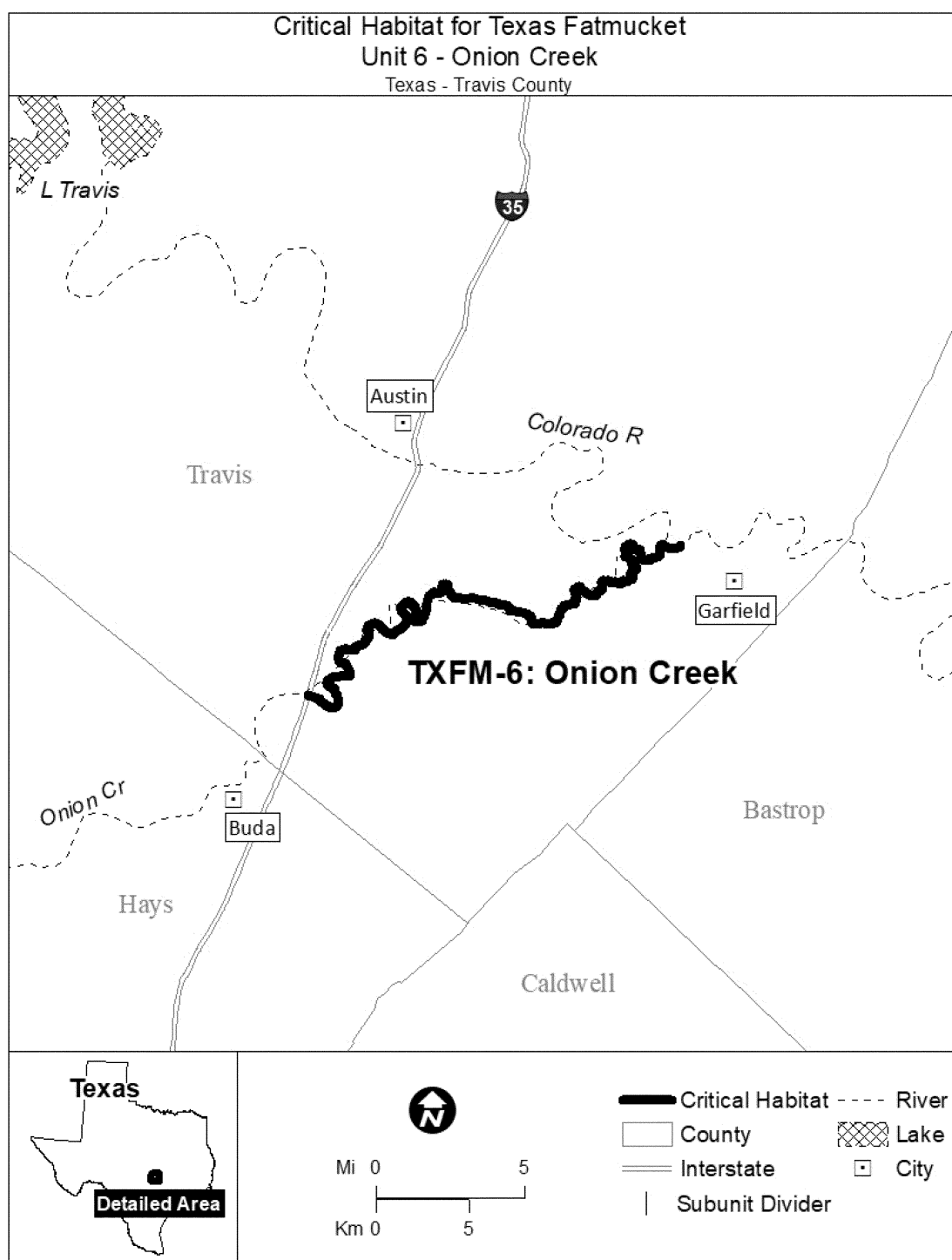
Figure 6 to Texas Fatmucket (*Lampsilis bracteata*) paragraph (10)(iii)



- (11) Unit TXFM-6: Onion Creek Unit; Travis County, Texas.
- (i) Unit TXFM-6 consists of 23.5 river mi (37.8 km) in Travis County, Texas. This subunit is composed of lands in

- State/local government (56 percent) and private (44 percent) ownership.
- (ii) Unit TXFM-6 includes stream channel up to bankfull height.
- (iii) Map of Unit TXFM-6 follows:

Figure 7 to Texas Fatmucket (*Lampsilis bracteata*) paragraph (11)(iii)



Texas Fawnsfoot (*Truncilla macrodon*)

(1) Critical habitat units are depicted for Lampasas, Mills, Palo Pinto, Parker, San Saba, Shackelford, Stephens, and Throckmorton Counties, Texas, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of Texas fawnsfoot consist of the following components within

waters and streambeds up to the ordinary high-water mark:

(i) Flowing water at rates suitable to prevent excess sedimentation but not so high as to dislodge individuals or sediment;

(ii) Stable bank and riffle habitats with gravel, sand, silt, and mud substrates that are clean swept by flushing flows;

(iii) Freshwater drum (*Aplodinotus grunniens*) present; and

(iv) Water quality parameters within the following ranges:

(A) Dissolved oxygen greater than 2 milligrams per liter (mg/L);

(B) Salinity less than 2 parts per thousand;

(C) Total ammonia less than 0.77 mg/L total ammonia nitrogen;

(D) Water temperature below 29 °C (84.2 °F); and

(E) Low levels of contaminants.

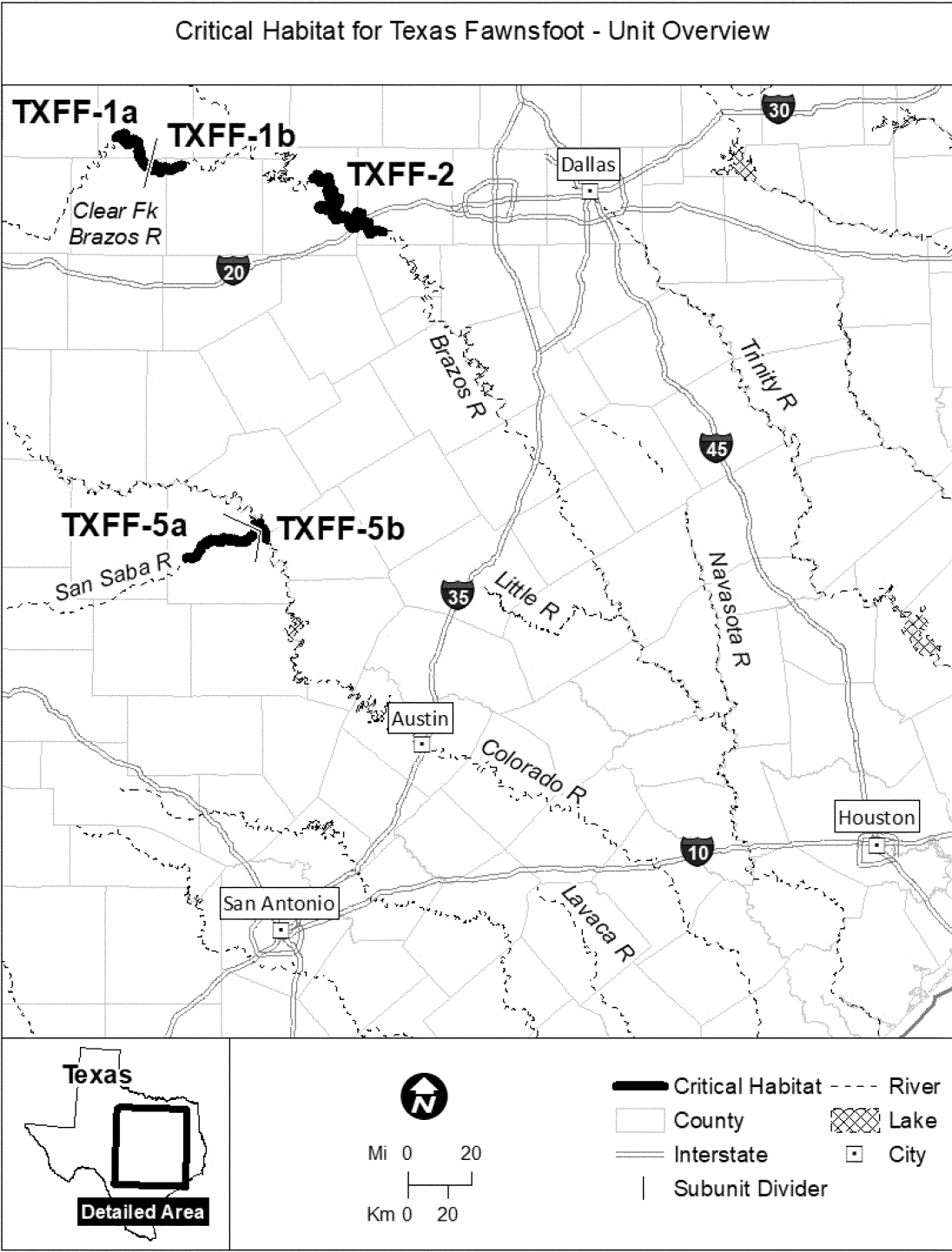
(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 5, 2024.

(4) Data layers defining the map units were created on a base of U.S. Geological Survey digital ortho-photo quarter-quadrangles, and the critical habitat units were then mapped using

Universal Transverse Mercator (UTM) Zone 14N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which the maps are based are available to the public at the Service's internet site at <https://www.fws.gov/office/austin-ecological-services>, at <https://www.regulations.gov> at Docket No.

FWS-R2-ES-2019-0061, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Index map of critical habitat units for the Texas fawnsfoot follows: Figure 1 to Texas Fawnsfoot (*Truncilla macrodon*) paragraph (5)



(6) Unit TXFF-1: Clear Fork of the Brazos River Unit; Shackelford, Stephens, and Throckmorton Counties, Texas.

(i) Unit TXFF-1 consists of two subunits:

(A) Subunit TXFF-1a (Upper Clear Fork Brazos River) consists of 27.3 river miles (mi) (44.0 kilometers (km)) in

Shackelford and Throckmorton Counties, Texas. All of the riparian lands that border this subunit are in private ownership.

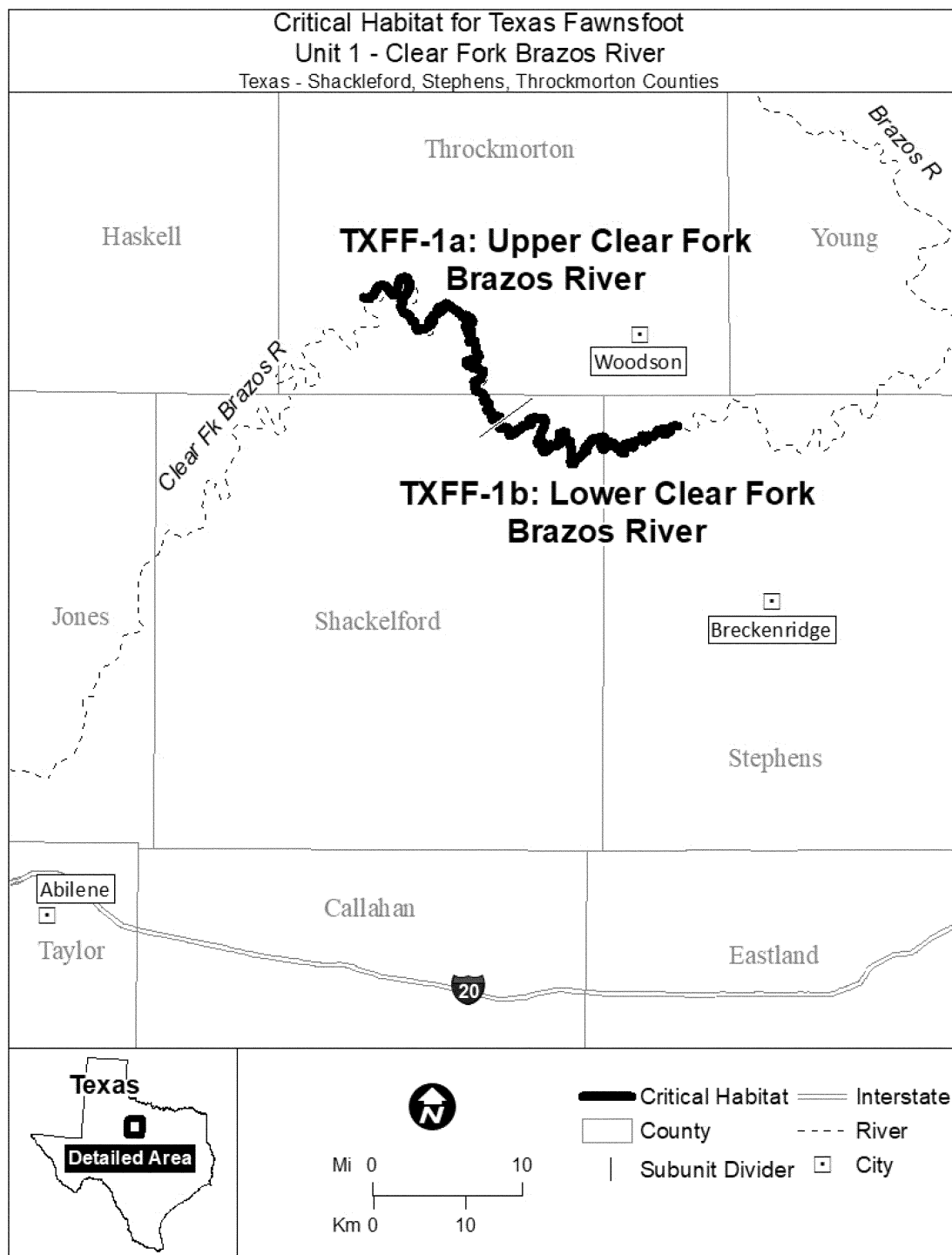
(B) Subunit TXFF-1b (Lower Clear Fork Brazos River) consists of 27.9 river mi (45.0 km) in Shackelford and Stephens Counties, Texas. This subunit is composed of lands in State/local

government (1 percent) and private (99 percent) ownership.

(ii) Unit TXFF-1 includes stream channel up to bankfull height.

(iii) Map of Unit TXFF-1 follows:

Figure 2 to Texas Fawnsfoot (*Truncilla macrodon*) paragraph (6)(iii)



(7) Unit TXFF-2: Upper Brazos River Unit; Palo Pinto and Parker Counties, Texas.

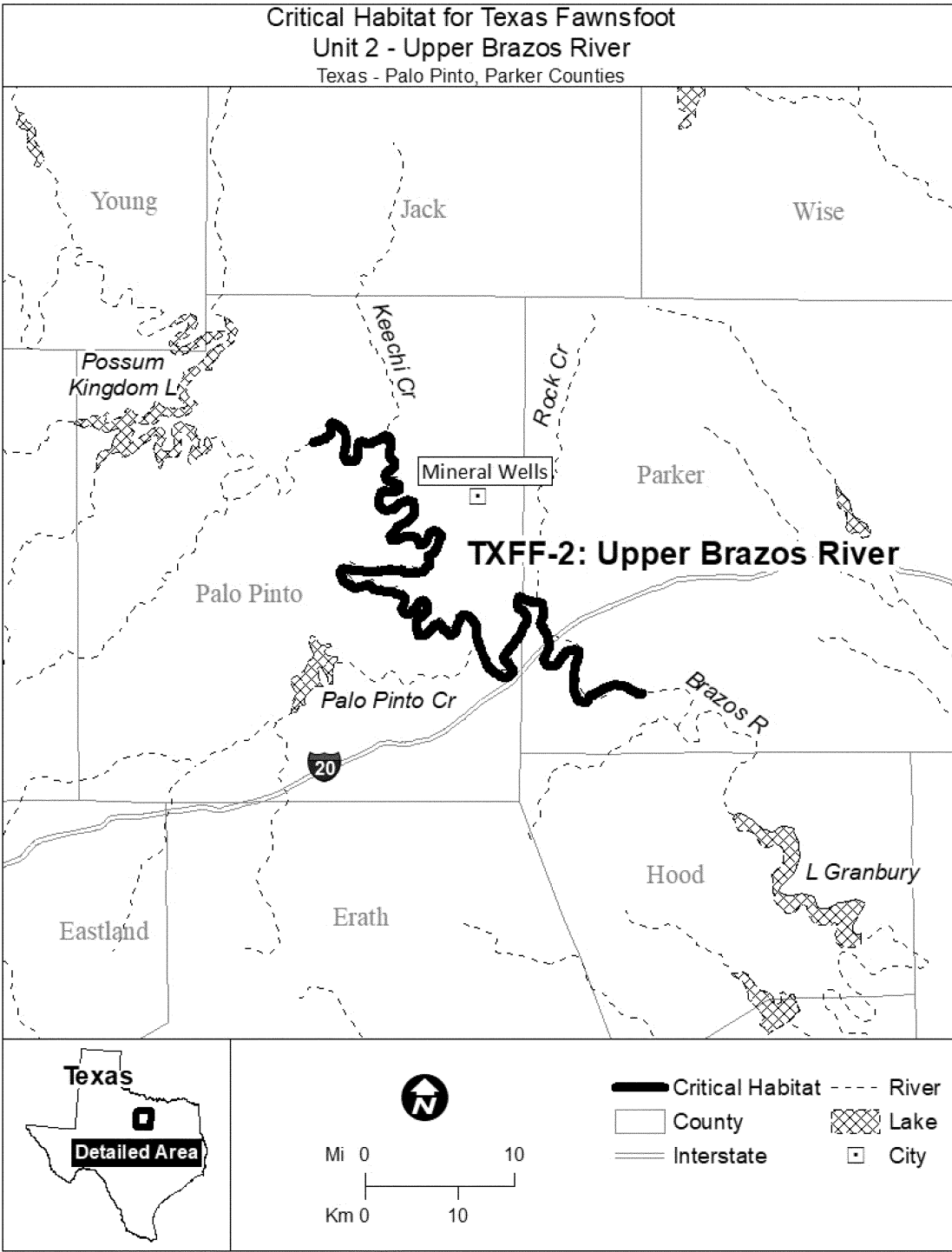
(i) Unit TXFF-2 consists of 78.0 river mi (125.5 km) in Palo Pinto and Parker

Counties, Texas. All of the riparian lands that border this unit are in private ownership.

(ii) Unit TXFF-2 includes stream channel up to bankfull height.

(iii) Map of Unit TXFF-2 follows:

Figure 3 to Texas Fawnsfoot (*Truncilla macrodon*) paragraph (7)(iii)



(8) Units TXFF-3 and TXFF-4 are excluded from the designation pursuant to section 4(b)(2) of the Act.

(9) Unit TXFF-5: Lower San Saba River and Upper Colorado River Unit;

Lampasas, Mills, and San Saba Counties, Texas.

(i) Unit TXFF-5 consists of two subunits:

(A) Subunit TXFF-5a (Lower San Saba River) consists of 49.2 river mi (79.1 km) in San Saba County, Texas. The riparian lands that border this subunit are in State/local government (1

percent) and private (99 percent) ownership.

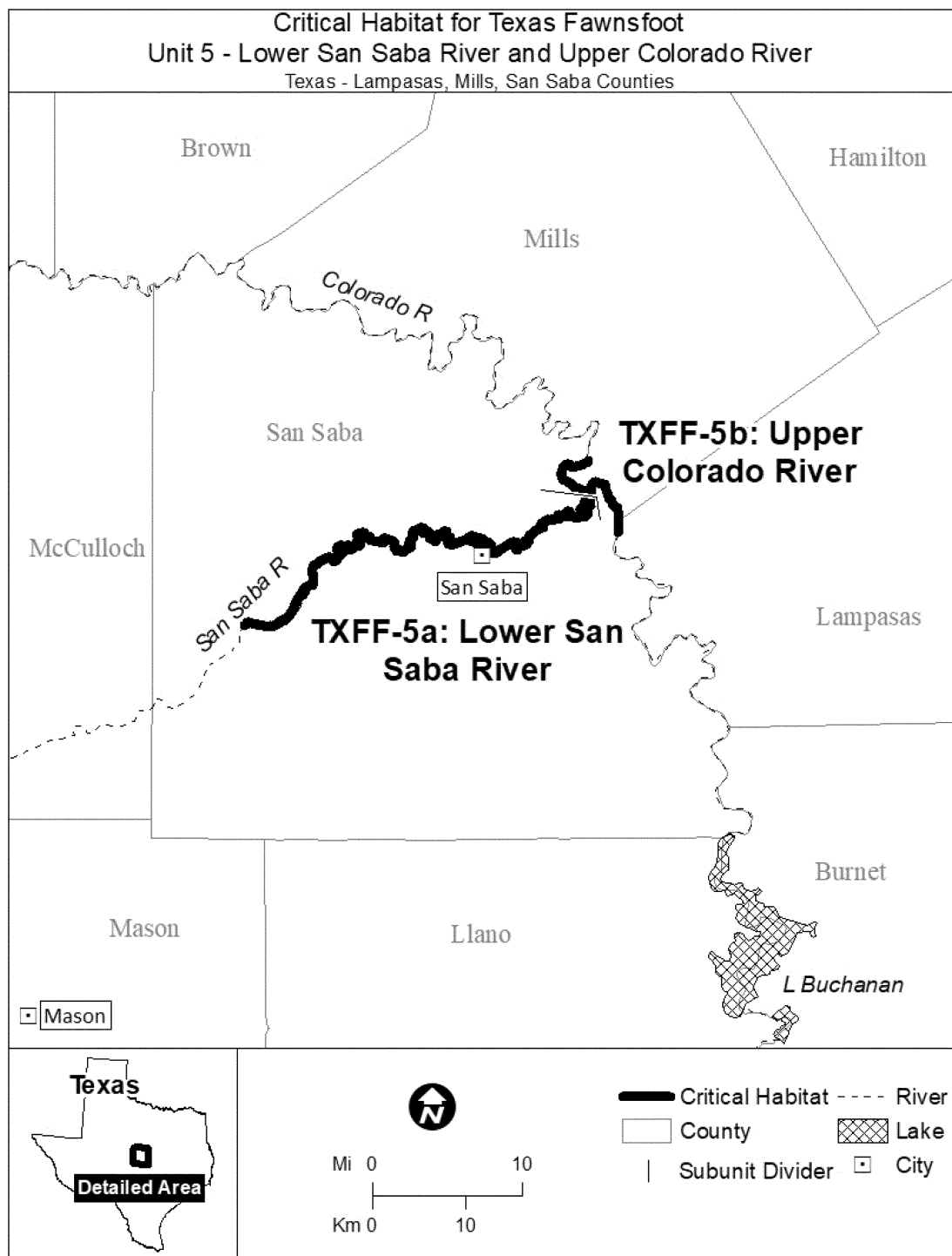
(B) Subunit TXFF-5b (Upper Colorado River) consists of 10.3 river mi (16.6 km) in Lampasas, Mills, and San

Saba Counties, Texas. All of the riparian lands that border this unit are in private ownership.

(ii) Unit TXFF-5 includes stream channel up to bankfull height.

(iii) Map of Unit TXFF-5 follows:

Figure 4 to Texas Fawnsfoot (*Truncilla macrodon*) paragraph (9)(iii)



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(10) Units TXFF-6, TXFF-7, and TXFF-8 are excluded from the

designation pursuant to section 4(b)(2) of the Act.

* * * * *

Guadalupe Orb (*Cyclonaias necki*)

(1) Critical habitat units are depicted for Caldwell, Comal, DeWitt, Gonzales, Guadalupe, Kendall, Kerr, and Victoria

Counties, Texas, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of Guadalupe orb consist of the following components within waters and streambeds up to the ordinary high-water mark:

(i) Flowing water at rates suitable to keep riffle habitats wetted and well-oxygenated and to prevent excess sedimentation or scour during high-flow events but not so high as to dislodge individuals;

(ii) Stable riffles and runs with substrate composed of cobble, gravel, and fine sediments;

(iii) Channel catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis olivaris*), and tadpole madtom (*Noturus gyrinus*) present; and

(iv) Water quality parameters within the following ranges:

(A) Dissolved oxygen greater than 2 milligrams per liter (mg/L);

(B) Salinity less than 2 parts per thousand;

(C) Total ammonia less than 0.77 mg/L total ammonia nitrogen;

(D) Water temperature below 29 °C (84.2 °F); and

(E) Low levels of contaminants.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 5, 2024.

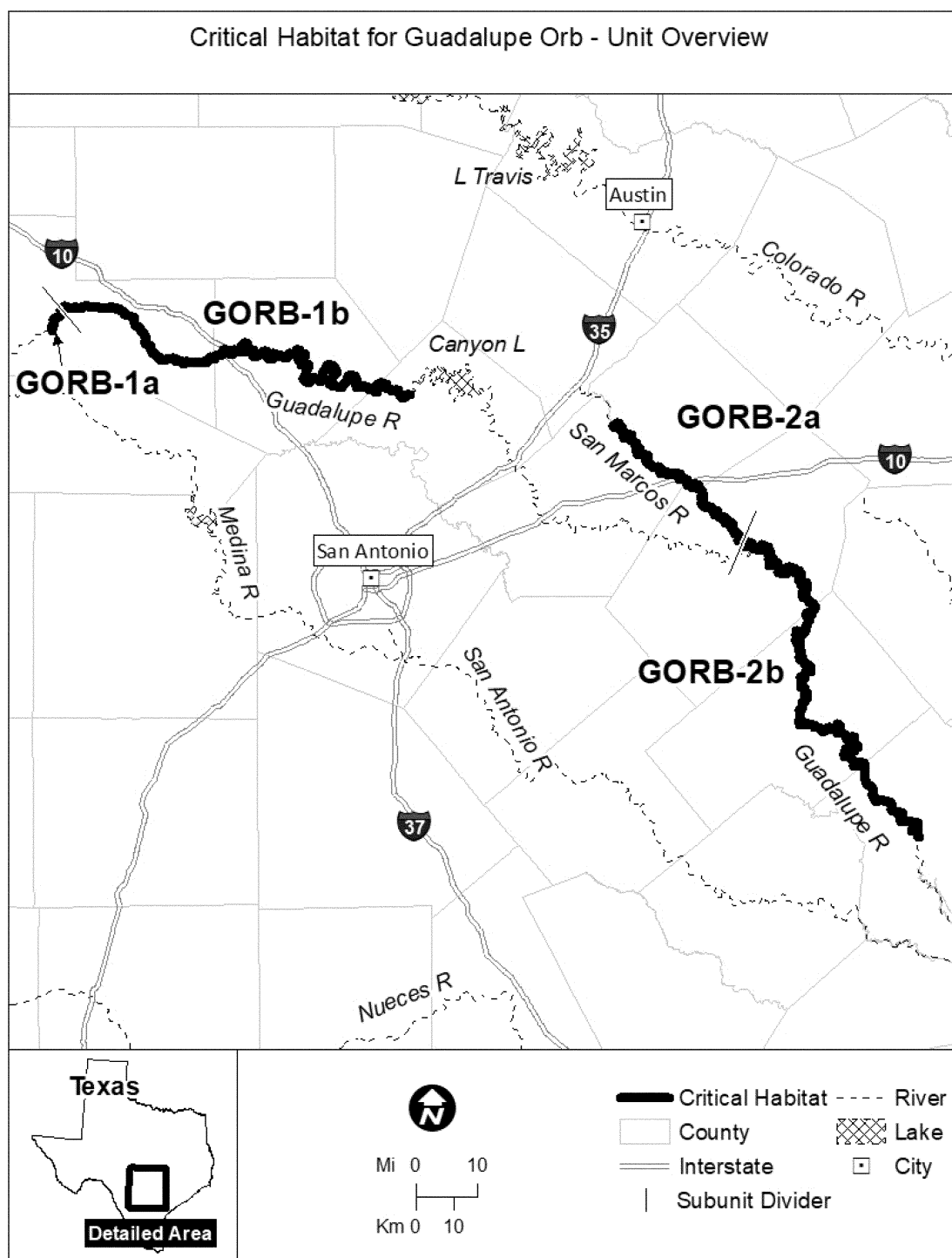
(4) Data layers defining the map units were created on a base of U.S. Geological Survey digital ortho-photo quarter-quadrangles, and the critical habitat units were then mapped using Universal Transverse Mercator (UTM)

Zone 14N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which the maps are based are available to the public at the Service's internet site at <https://www.fws.gov/office/austin-ecological-services>, at <https://www.regulations.gov> at Docket No. FWS-R2-ES-2019-0061, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Index map of critical habitat units for the Guadalupe orb follows:

Figure 1 to Guadalupe Orb (*Cyclonaias necki*) paragraph (5)

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(6) Unit GORB-1: Upper Guadalupe River; Comal, Kendall, and Kerr Counties, Texas.

(i) Unit GORB-1 consists of two subunits:

(A) Subunit GORB-1a (South Fork Guadalupe River) consists of 5.1 river miles (mi) (8.2 kilometers (km)) in Kerr

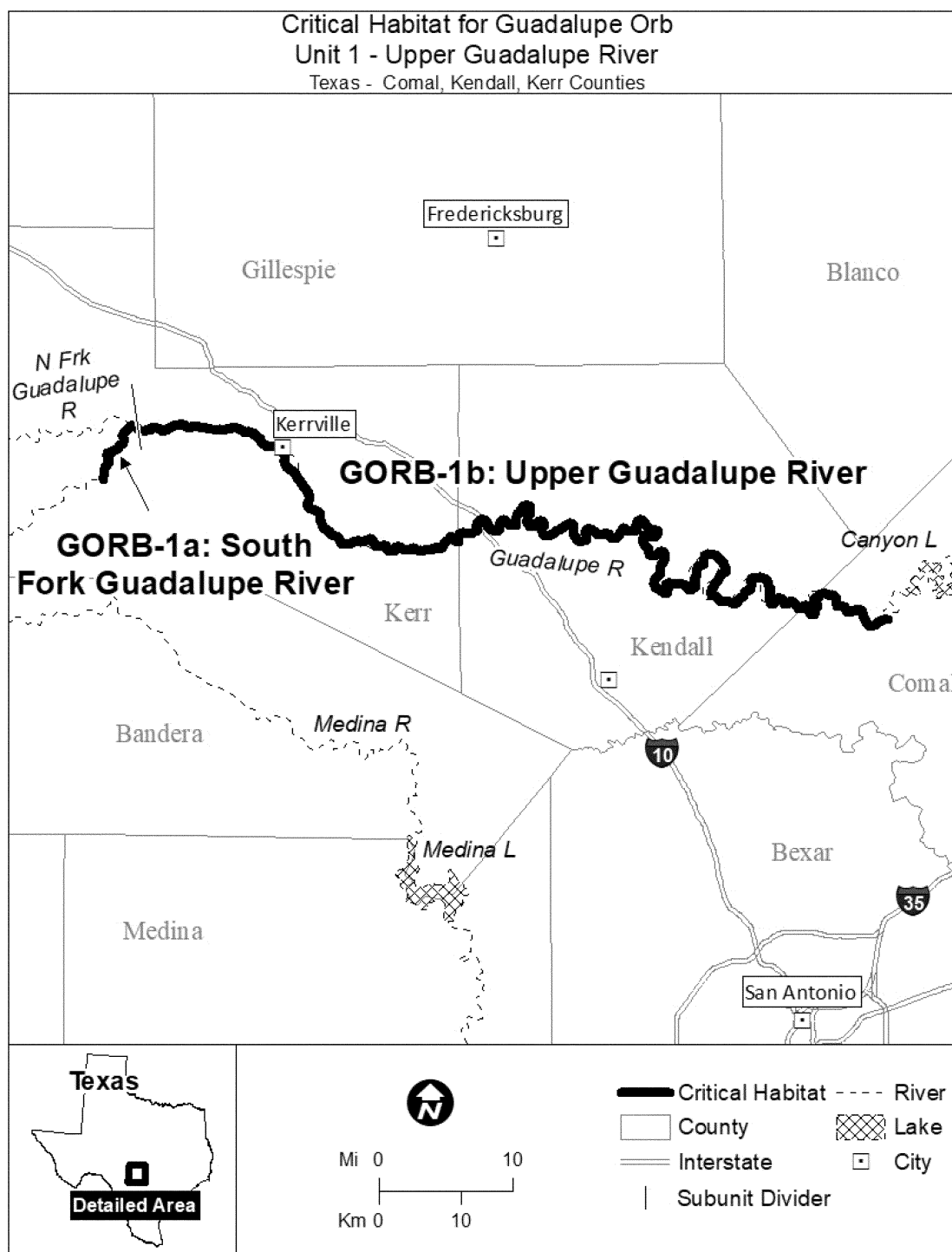
County, Texas. All of the riparian lands that border this unit are in private ownership.

(B) Subunit GORB-1b (Upper Guadalupe River) consists of 97.1 river mi (156.3 km) of the Guadalupe River in Comal, Kendall, and Kerr Counties, Texas. The riparian lands that border

this subunit are in State/local government (5 percent) and private (95 percent) ownership.

(ii) Unit GORB-1 includes stream channel up to bankfull height.

(iii) Map of Unit GORB-1 follows: Figure 2 to Guadalupe Orb (*Cyclonaias necki*) paragraph (6)(iii)



(7) Unit GORB-2: Lower Guadalupe River; Caldwell, DeWitt, Gonzales, Guadalupe, and Victoria Counties, Texas.

(i) Unit GORB-2 consists of two subunits:

(A) Subunit GORB-2a (San Marcos River) consists of 63.9 river mi (102.8 km) in Caldwell, Gonzales, and

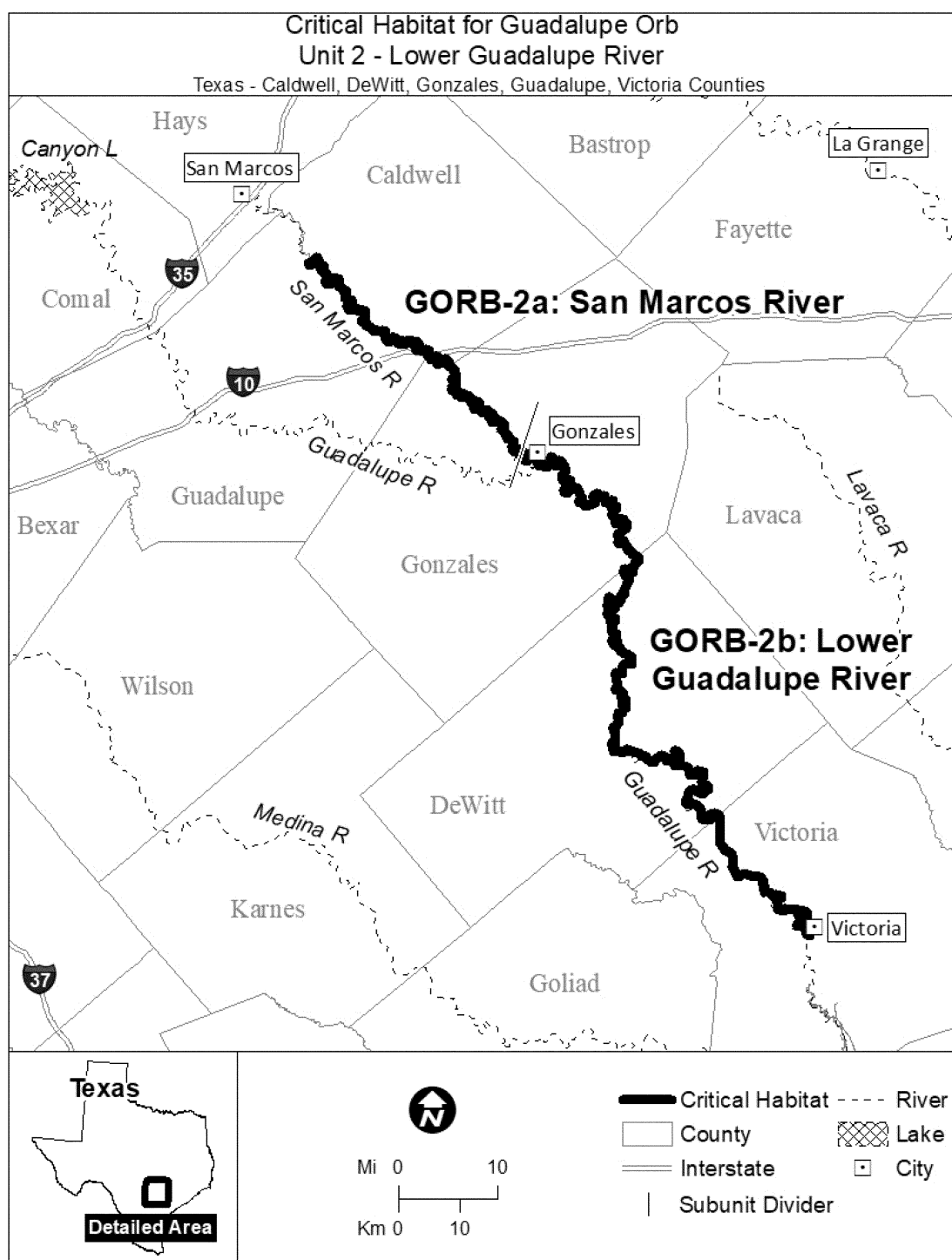
Guadalupe Counties, Texas. The riparian lands that border this subunit are in State/local government (6 percent) and private (94 percent) ownership.

(B) Subunit GORB-2b (Lower Guadalupe River) consists of 122.4 river mi (197.0 km) in DeWitt, Gonzales, and Victoria Counties, Texas. The riparian

lands that border this subunit are in State/local government (5 percent) and private (95 percent) ownership.

(ii) Unit GORB-2 includes stream channel up to bankfull height.

(iii) Map of Unit GORB-2 follows: Figure 3 to Guadalupe Orb (*Cyclonaias necki*) paragraph (7)(iii)



* * * * *

Texas Pimpleback (*Cyclonaias petrina*)

(1) Critical habitat units are depicted for Brown, Coleman, Concho, Kimble, Lampasas, Mason, McCulloch, Menard, Mills, Runnels, San Saba, and Tom Green Counties, Texas, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of Texas pimpleback

consist of the following components within waters and streambeds up to the ordinary high-water mark:

(i) Flowing water at rates suitable to keep riffle habitats wetted and well-oxygenated and to prevent excess sedimentation or scour during high-flow events but not so high as to dislodge individuals;

(ii) Stable riffles and runs with substrate composed of cobble, gravel, and fine sediments;

(iii) Channel catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis olivaris*), and tadpole madtom (*Noturus gyrinus*) present; and

(iv) Water quality parameters within the following ranges:

(A) Dissolved oxygen greater than 2 milligrams per liter (mg/L);

(B) Salinity less than 2 parts per thousand;

(C) Total ammonia less than 0.77 mg/L total ammonia nitrogen;

(D) Water temperature below 29 °C (84.2 °F); and

(E) Low levels of contaminants.

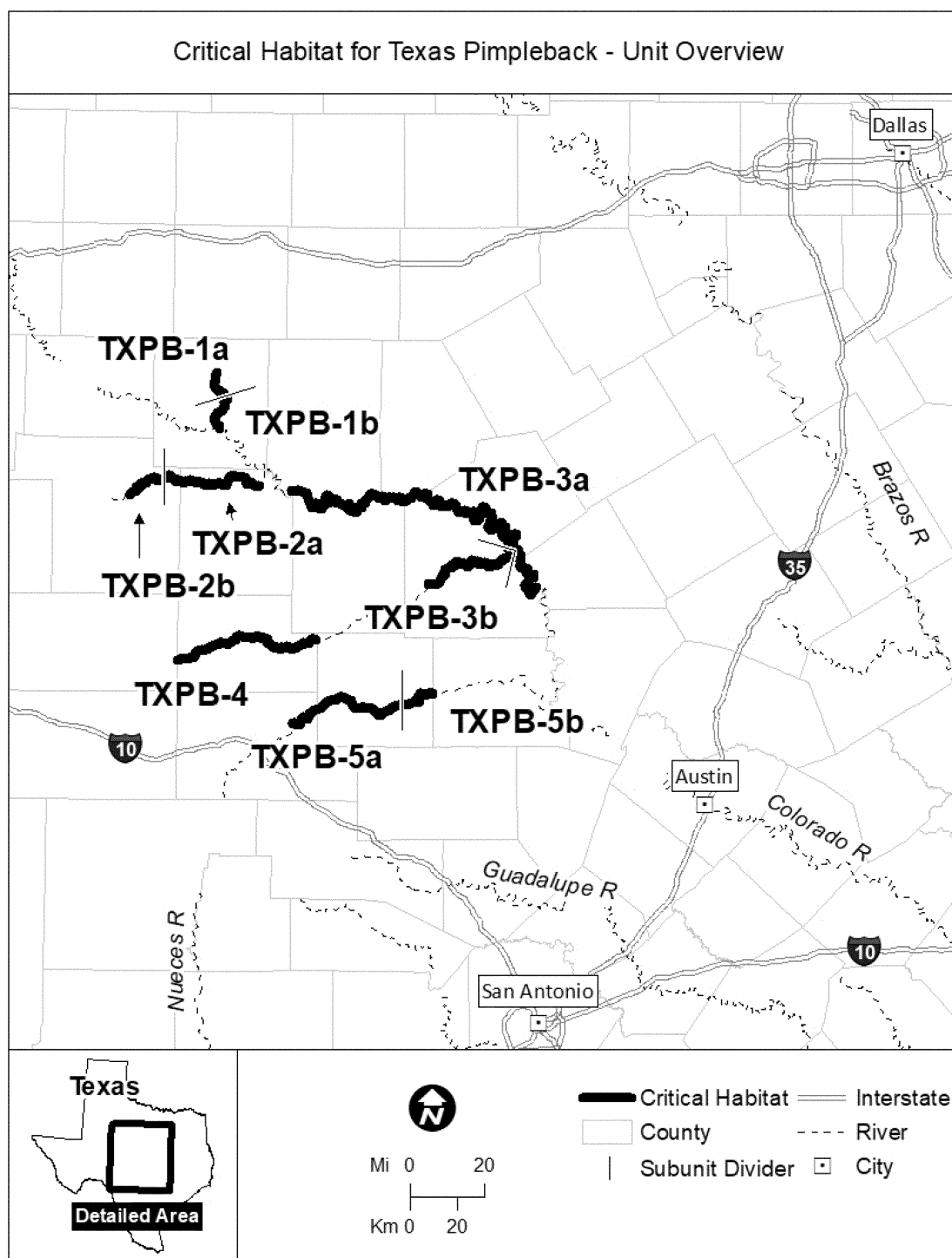
(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 5, 2024.

(4) Data layers defining the map units were created on a base of U.S. Geological Survey digital ortho-photo

quarter-quadrangles, and the critical habitat units were then mapped using Universal Transverse Mercator (UTM) Zone 14N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which the maps are based are available to the public at the Service's internet site at <https://www.fws.gov/office/austin-ecological-services>, at [\[www.regulations.gov\]\(https://www.regulations.gov\) at Docket No. FWS-R2-ES-2019-0061, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.](https://</p></div><div data-bbox=)

(5) Index map of critical habitat units for the Texas pimpleback follows:

Figure 1 to Texas Pimpleback
(*Cyclonaias petrina*) paragraph (5)



(6) Unit TXPB-1: Elm Creek; Runnels County, Texas.

(i) Unit TXPB-1 consists of two subunits:

(A) Subunit TXPB-1a (Bluff Creek) consists of 11.6 river miles (mi) (18.7 kilometers (km)) in Runnels County, Texas. All of the riparian lands that

border this unit are in private ownership.

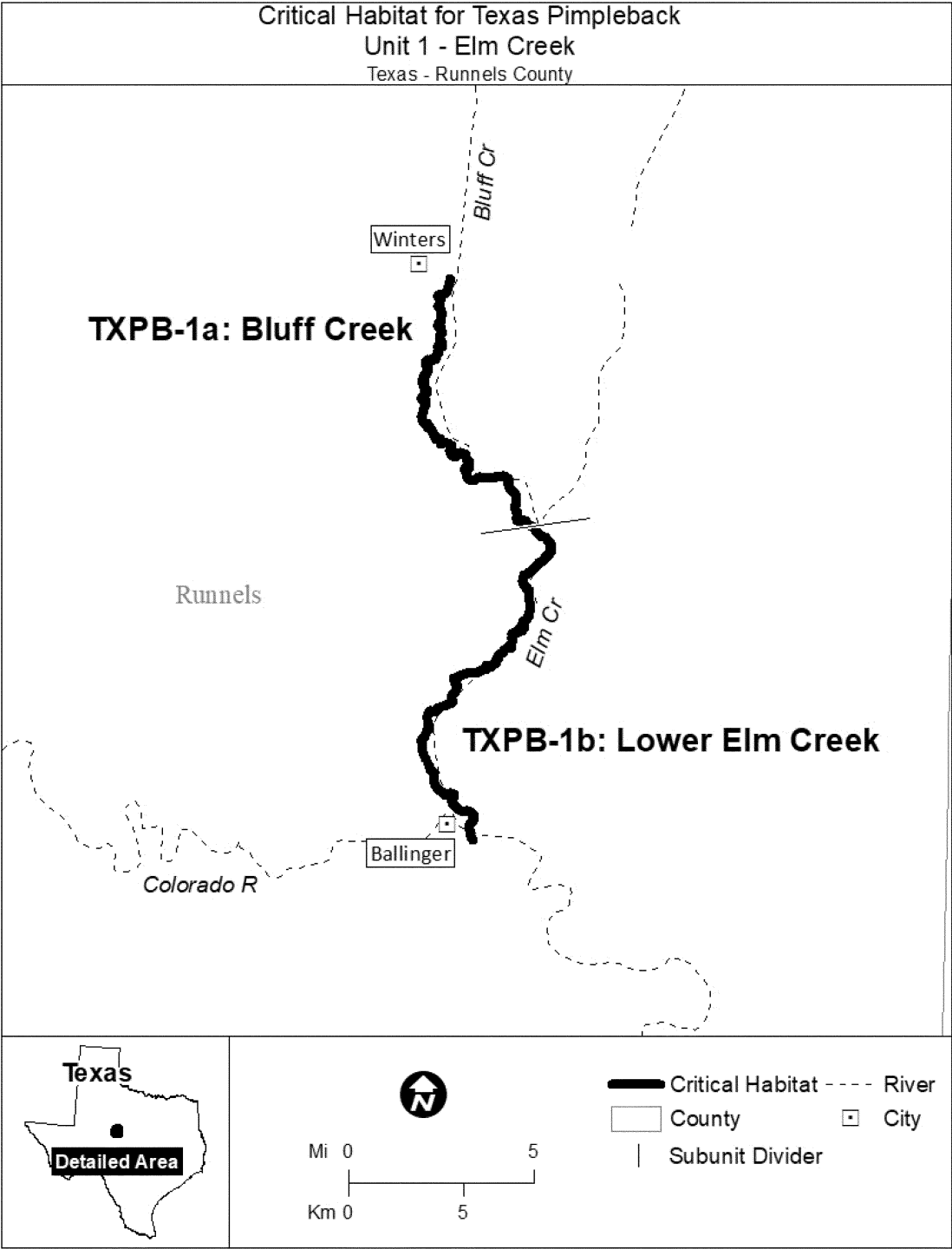
(B) Subunit TXPB-1b (Lower Elm Creek) consists of 12.3 river mi (19.8 km) in Runnels County, Texas. The riparian lands that border this subunit are in State/local government (3

percent) and private (97 percent) ownership.

(ii) Unit TXPB-1 includes stream channel up to bankfull height.

(iii) Map of Unit TXPB-1 follows:

Figure 2 to Texas Pimpleback (*Cyclonias petrina*) paragraph (6)(iii)



(7) Unit TXPB-2: Concho River; Concho and Tom Green Counties, Texas.

(i) Unit TXPB-2 consists of two subunits:

(A) Subunit TXPB-2a (Lower Concho River) consists of 34.6 river mi (55.7 km) in Concho and Tom Green Counties,

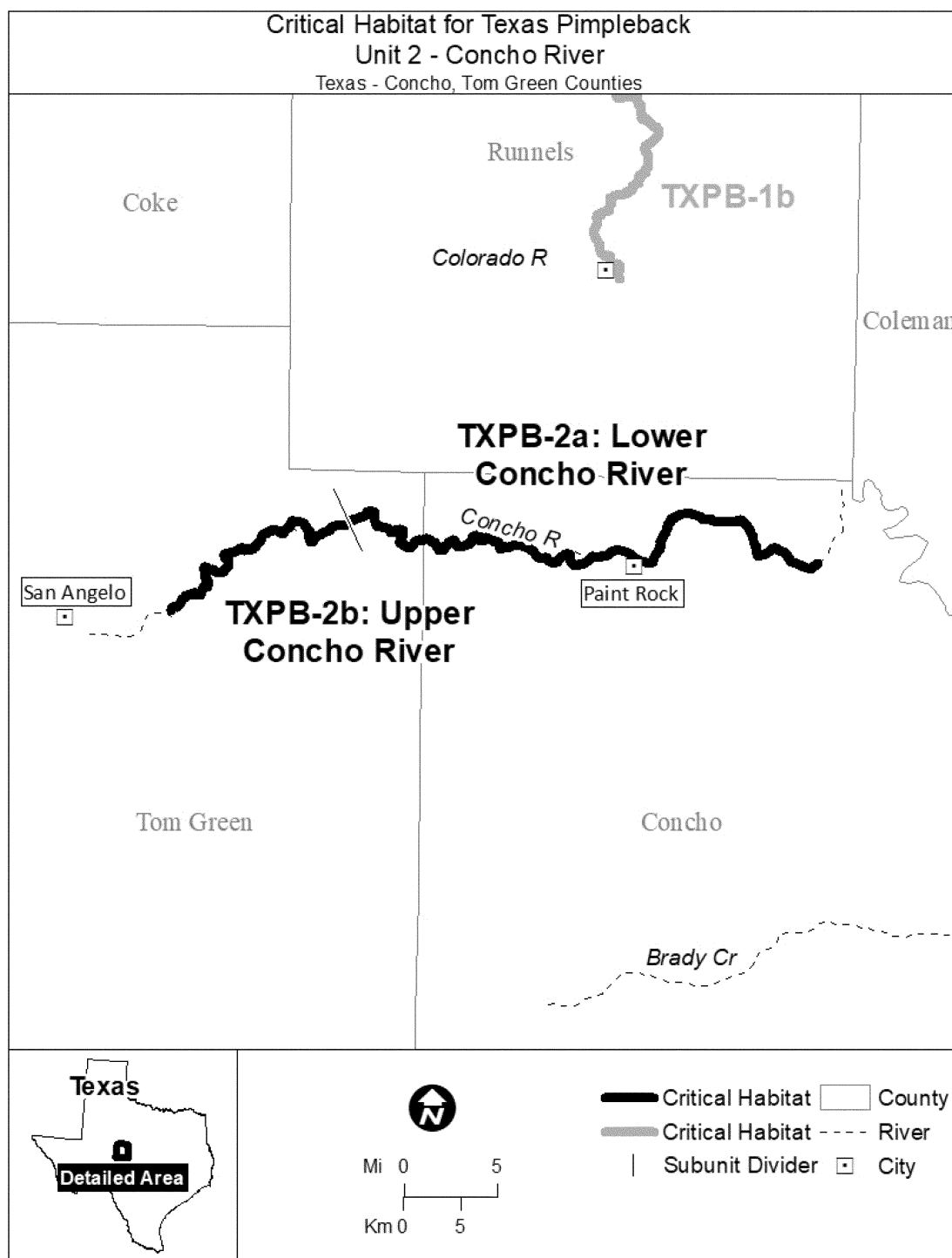
Texas. All of the riparian lands that border this subunit are in private ownership.

(B) Subunit TXPB-2b (Upper Concho River) consists of 15.5 river mi (25.0 km) of the Concho River in Tom Green County, Texas. The riparian lands that border this subunit are in State/local

government (2 percent) and private (98 percent) ownership.

(ii) Unit TXPB-2 includes stream channel up to bankfull height.

(iii) Map of Unit TXPB-2 follows: Figure 3 to Texas Pimpleback (*Cyclonaias petrina*) paragraph (7)(iii)



(8) Unit TXPB-3: Upper Colorado River and Lower San Saba River; Brown, Coleman, Lampasas, McCulloch, Mills, and San Saba Counties, Texas.

(i) Unit TXPB-3 consists of two subunits:

(A) Subunit TXPB-3a (Upper Colorado River) consists of 150.4 river mi (242.1 km) in Brown, Coleman,

Lampasas, McCulloch, Mills, and San Saba Counties, Texas. All of the riparian lands that border this subunit are in private ownership.

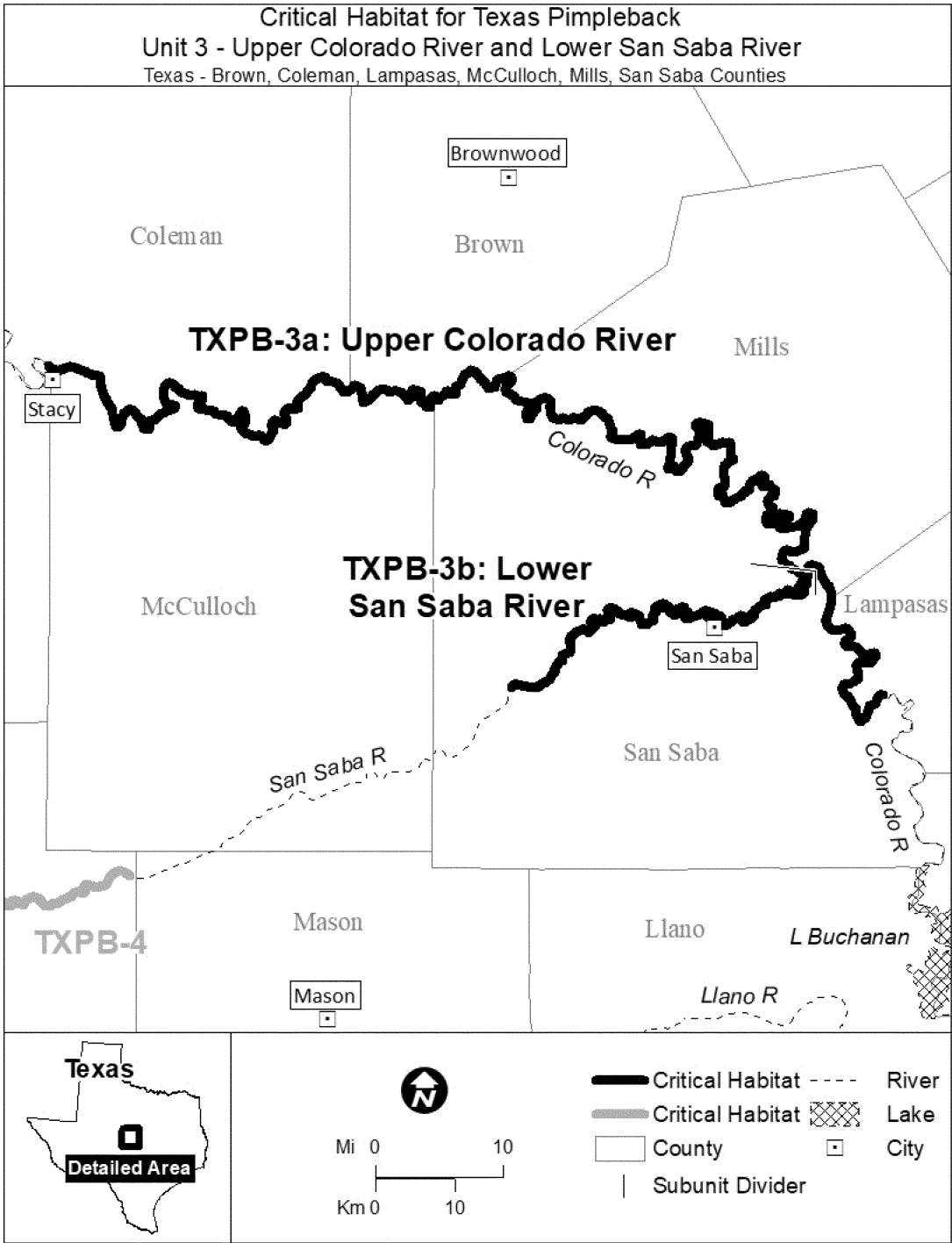
(B) Subunit TXPB-3b (Lower San Saba River) consists of 49.2 river mi (79.1 km) in San Saba County, Texas. The riparian lands that border this subunit are in State/local government (1

percent) and private (99 percent) ownership.

(ii) Unit TXPB-3 includes stream channel up to bankfull height.

(iii) Map of Unit TXPB-3 follows:

Figure 4 to Texas Pimpleback (*Cyclonaias petrina*) paragraph (8)(iii)



(9) Unit TXPB-4: Upper San Saba River; Menard County, Texas.

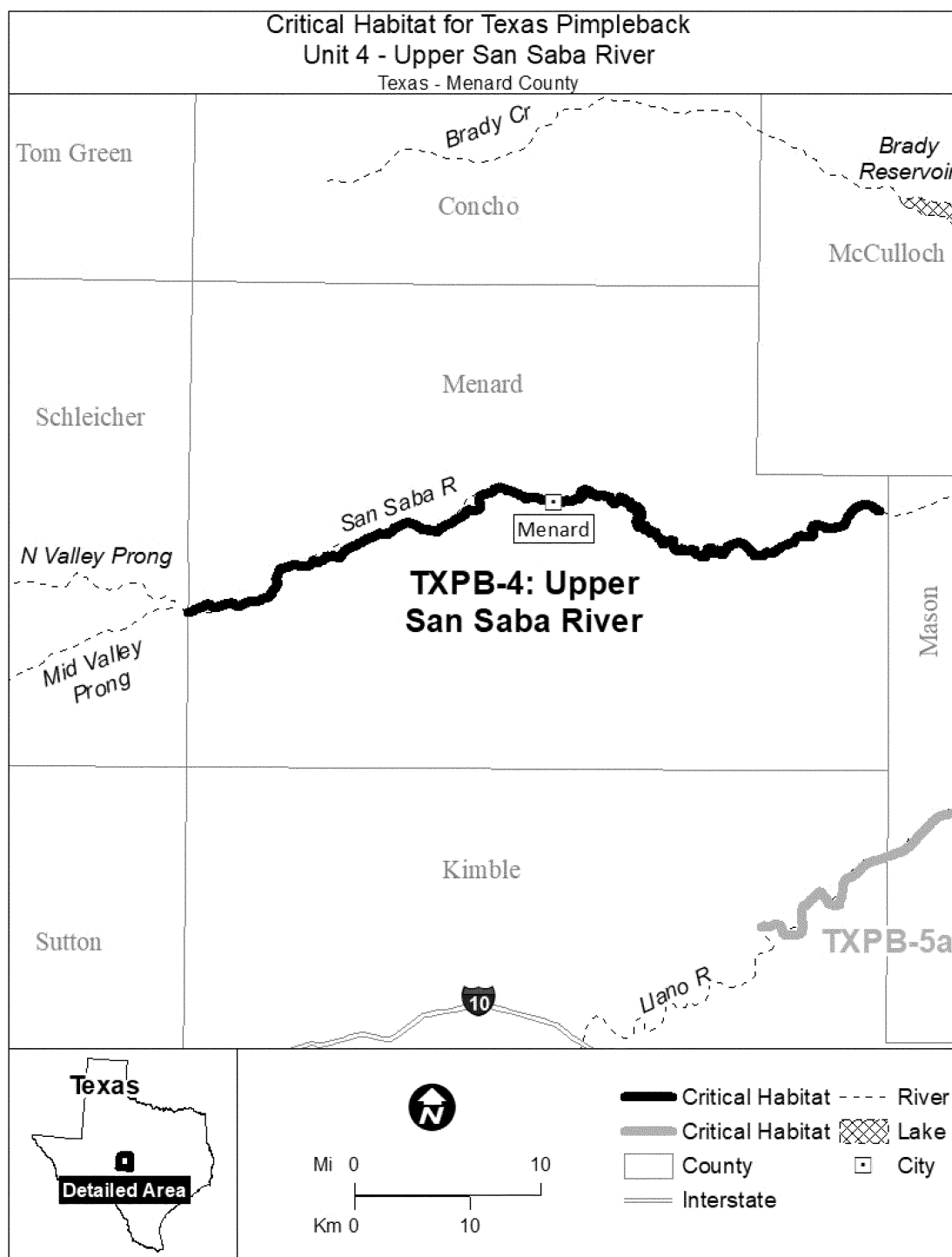
(i) Unit TXPB-4 consists of approximately 51.4 river mi (82.7 km) in Menard County, Texas. All of the

riparian lands that border this subunit are in private ownership.

(ii) Unit TXPB-4 includes stream channel up to bankfull height.

(iii) Map of Unit TXPB-4: Upper San Saba River follows:

Figure 5 to Texas Pimpleback (*Cyclonaias petrina*) paragraph (9)(iii)



(10) Unit TXPB-5: Llano River; Kimble and Mason Counties, Texas.

(i) Unit TXPB-5 consists of two subunits.

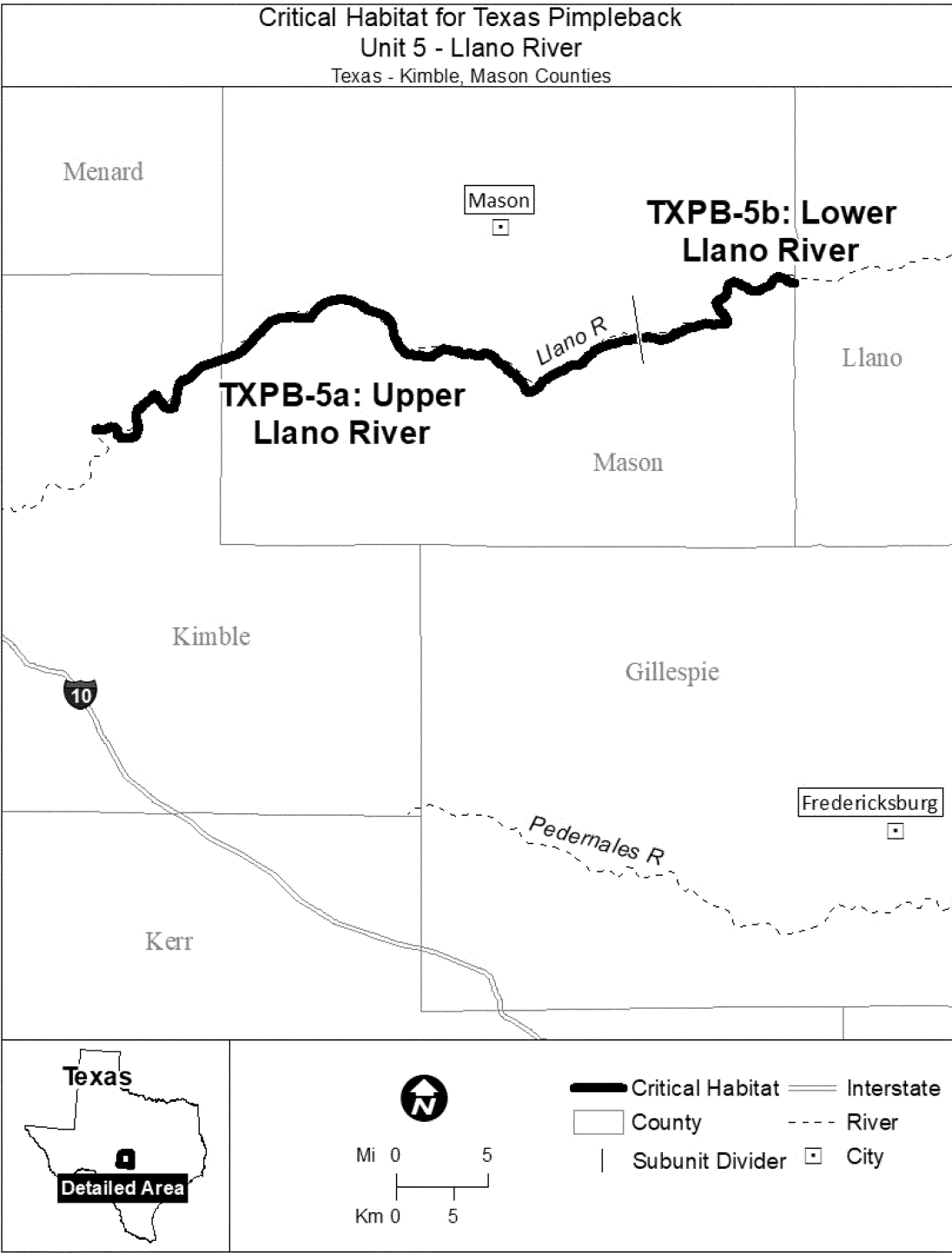
(A) Subunit TXPB-5a (Upper Llano River) consists of 37.2 river mi (59.9 km) in Kimble and Mason Counties, Texas.

All of the riparian lands that border this subunit are in private ownership.

(B) Subunit TXPB-5b (Lower Llano River) consists of 11.8 river mi (19.1 km) in Mason County, Texas. All of the riparian lands that border this subunit are in private ownership.

(ii) Unit TXPB-5 includes stream channel up to bankfull height.

(iii) Map of Unit TXPB-5 follows: Figure 6 to Texas Pimpleback (*Cyclonaias petrina*) paragraph (10)(iii)



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(11) Unit TXPB-6 is excluded from the designation pursuant to section 4(b)(2) of the Act.

Balcones Spike (*Fusconaia iheringi*)

(1) Critical habitat units are depicted for Kimble, Mason, and San Saba Counties, Texas, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the

conservation of Balcones spike consist of the following components within waters and streambeds up to the ordinary high-water mark:

- (i) Flowing water at rates suitable to keep riffle habitats wetted and well-oxygenated and to prevent excess sedimentation but not so high as to dislodge individuals;
- (ii) Stable riffles and runs with cobble, gravel, and fine sediments;

(iii) Blacktail shiner (*Cyprinella venusta*) and red shiner (*C. lutrensis*) present; and

(iv) Water quality parameters within the following ranges:

(A) Dissolved oxygen greater than 2 milligrams per liter (mg/L);

(B) Salinity less than 2 parts per thousand;

(C) Total ammonia less than 0.77 mg/L total ammonia nitrogen;

(D) Water temperature below 29 °C (84.2 °F); and

(E) Low levels of contaminants.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 5, 2024.

(4) Data layers defining the map units were created on a base of U.S.

Geological Survey digital ortho-photo quarter-quadrangles, and the critical

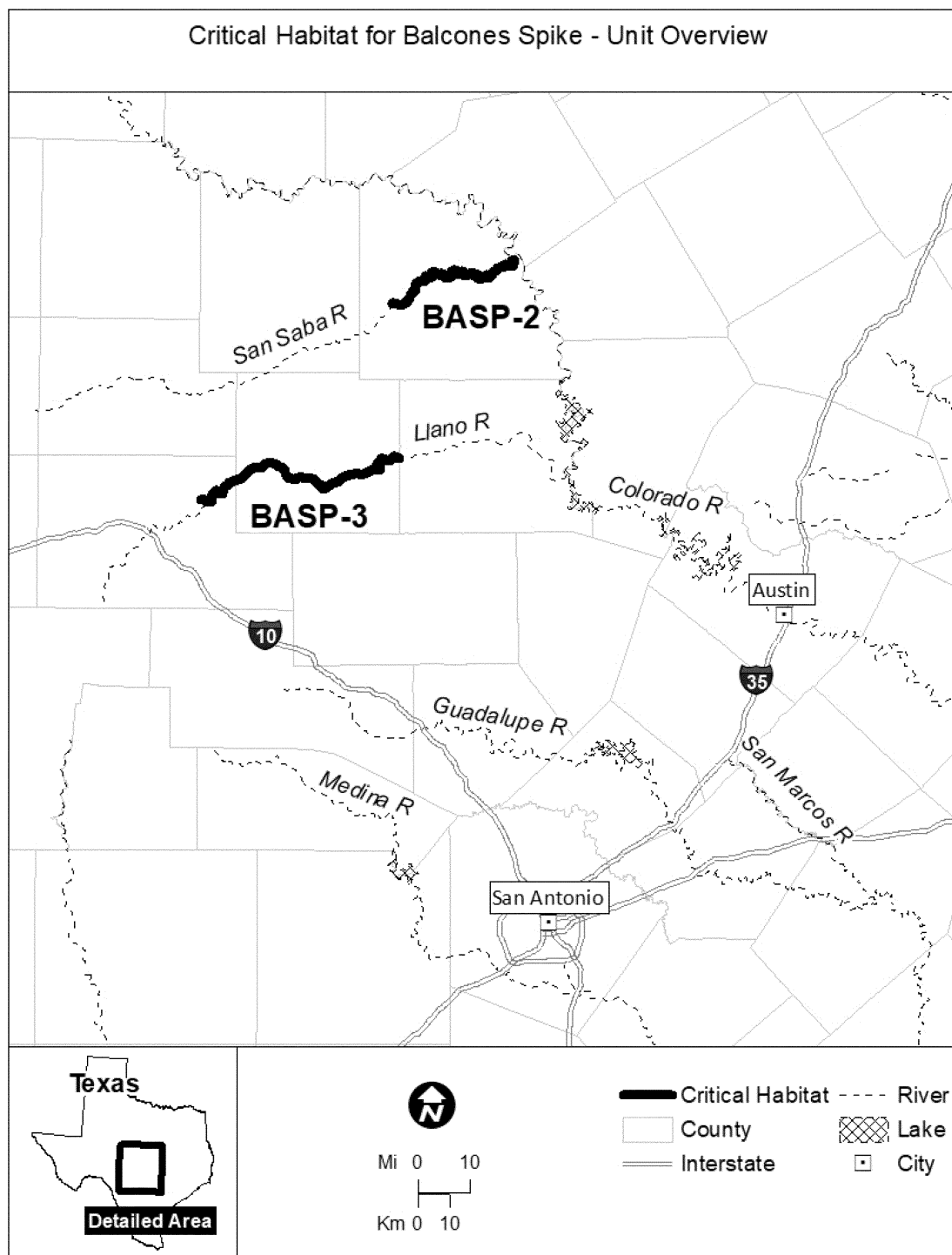
habitat units were then mapped using Universal Transverse Mercator (UTM) Zone 14N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which the maps are based are available to the public at the Service's internet site at <https://www.fws.gov/office/austin-ecological-services>, at <https://www.regulations.gov> at Docket No.

FWS-R2-ES-2019-0061, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Index map of critical habitat units for the Balcones spike follows:

Figure 1 to Balcones Spike (*Fusconaia iheringi*) paragraph (5)

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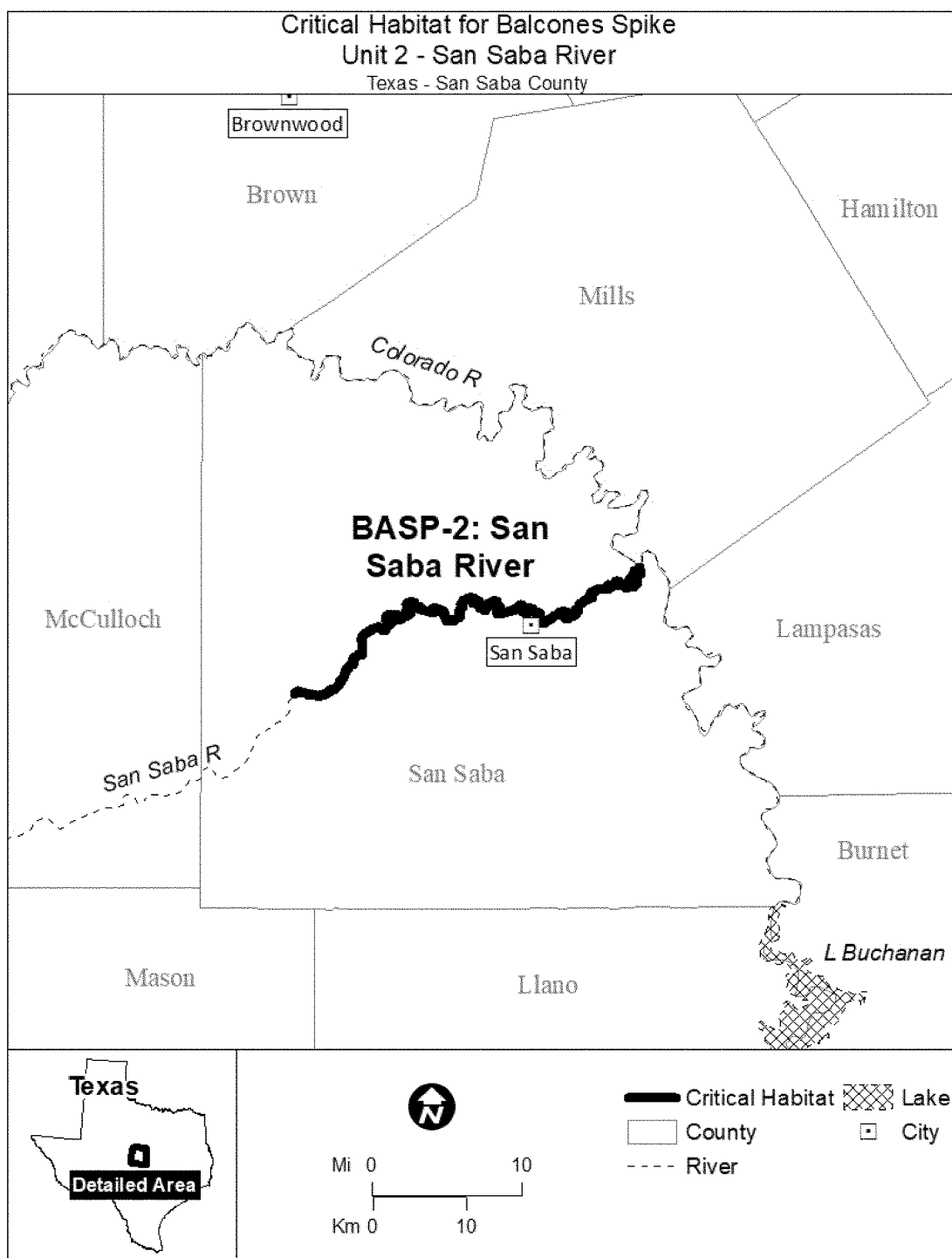
(6) Unit BASP-1 is excluded from the designation pursuant to section 4(b)(2) of the Act.

(7) Unit BASP-2: San Saba River; San Saba County, Texas.

(i) Unit BASP-2 consists of 49.1 river miles (mi) (79.0 kilometers (km)) in San Saba County, Texas. The riparian lands that border this subunit are in State/local government (1 percent) and private (99 percent) ownership.

(ii) Unit BASP-2 includes stream channel up to bankfull height.

(iii) Map of Unit BASP-2 follows: Figure 2 to Balcones Spike (*Fusconaia iheringi*) paragraph (7)(iii)



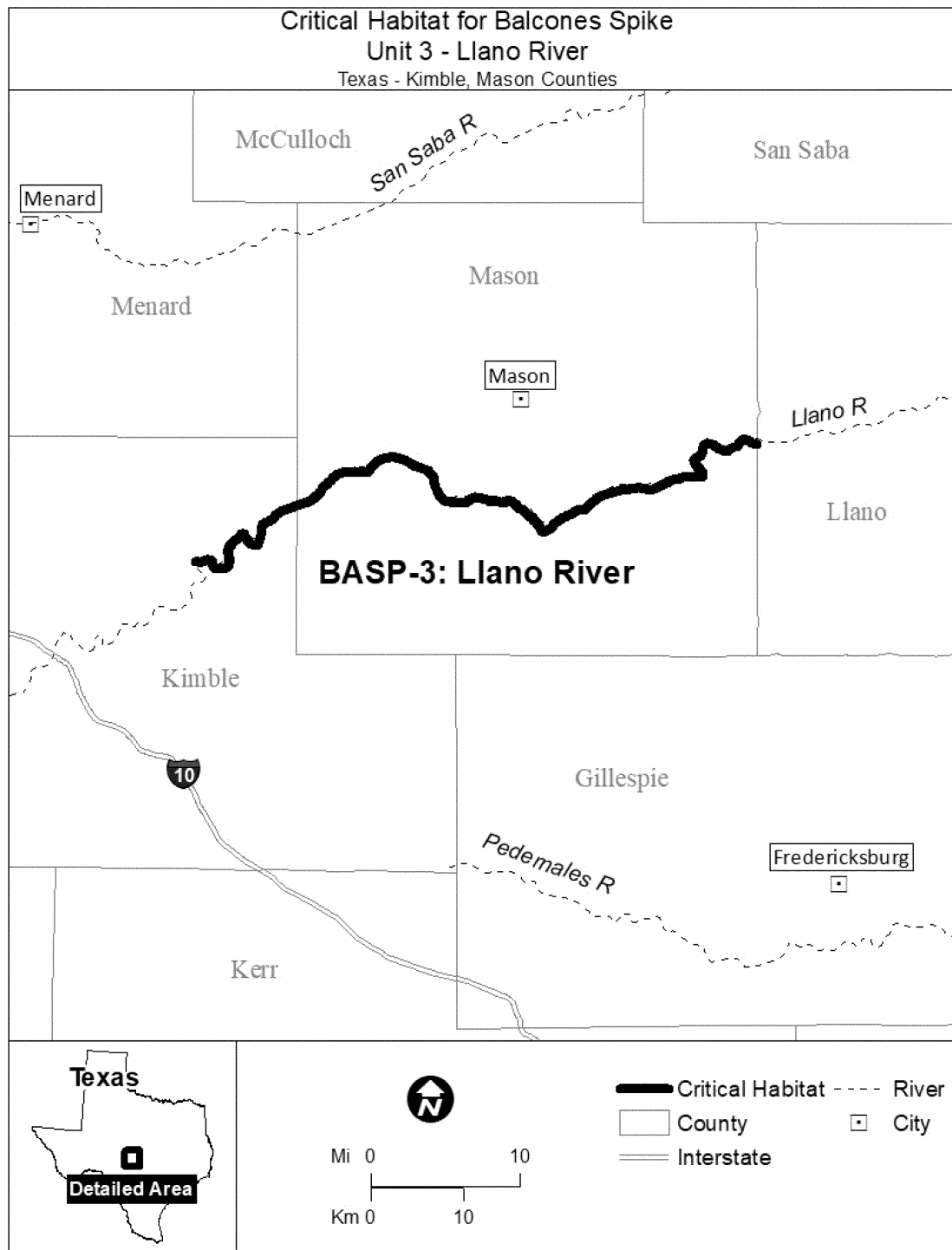
(8) Unit BASP-3: Llano River; Kimble and Mason Counties, Texas.

(i) Unit BASP-3 consists of 49 river mi (78.9 km) in Kimble and Mason Counties, Texas.

(ii) Unit BASP-3 includes stream channel up to bankfull height.

(iii) Map of Unit BASP-3 follows:

Figure 3 to Balcones Spike (*Fusconaia iheringi*) paragraph (8)(iii)

**BILLING CODE 4333-15-C****False Spike (*Fusconaia mitchelli*)**

(1) The critical habitat unit is depicted for DeWitt, Gonzales, and Victoria Counties, Texas, on the map in this entry.

(2) Within this area, the physical or biological features essential to the conservation of false spike consist of the following components within waters

and streambeds up to the ordinary high-water mark:

- (i) Flowing water at rates suitable to keep riffle habitats wetted and well-oxygenated and to prevent excess sedimentation but not so high as to dislodge individuals;
- (ii) Stable riffles and runs with cobble, gravel, and fine sediments;
- (iii) Blacktail shiner (*Cyprinella venusta*) and red shiner (*C. lutrensis*) present; and

(iv) Water quality parameters within the following ranges:

- (A) Dissolved oxygen greater than 2 milligrams per liter (mg/L);
- (B) Salinity less than 2 parts per thousand;
- (C) Total ammonia less than 0.77 mg/L total ammonia nitrogen;
- (D) Water temperature below 29 °C (84.2 °F); and
- (E) Low levels of contaminants.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 5, 2024.

(4) Data layers defining the map unit were created on a base of U.S. Geological Survey digital ortho-photo quarter-quadrangles, and the critical habitat unit was then mapped using Universal Transverse Mercator (UTM) Zone 14N coordinates. The map in this entry, as modified by any accompanying regulatory text, establishes the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is

based are available to the public at the Service's internet site at <https://www.fws.gov/office/austin-ecological-services>, at <https://www.regulations.gov> at Docket No. FWS-R2-ES-2019-0061, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Unit FASP-1: Guadalupe River; DeWitt, Gonzales, and Victoria Counties, Texas.

(i) Unit FASP-1 consists of two subunits:

(A) Subunit FASP-1a (San Marcos River) consists of 21.2 river miles (mi)

(34 kilometers (km)) of the in Gonzales County, Texas. The riparian lands that border this subunit are in State (8 percent) and private (92 percent) ownership.

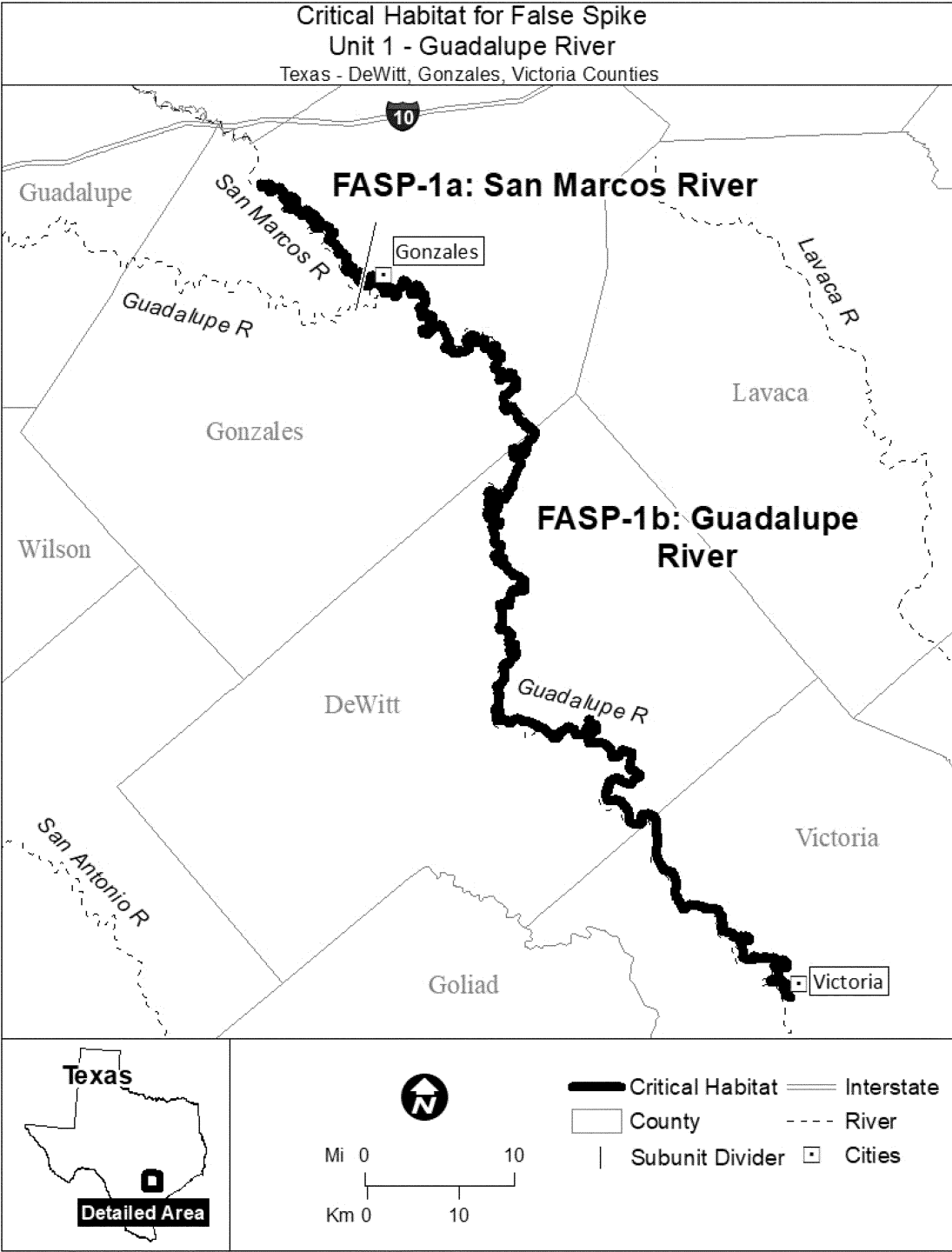
(B) Subunit FASP-1b (Guadalupe River) consists of 122.4 river mi (197 km) of the Guadalupe River in DeWitt, Gonzales, and Victoria Counties, Texas. The riparian lands that border this subunit are in State (2 percent) and private (98 percent) ownership.

(ii) Unit FASP-1 includes stream channel up to bankfull height.

(iii) Map of Unit FASP-1 follows:

Figure 1 to False Spike (*Fusconaia mitchelli*) paragraph (5)(iii)

BILLING CODE 4333-15-P



* * * * *

Martha Williams,
Director, U.S. Fish and Wildlife Service.
[FR Doc. 2024-11645 Filed 6-3-24; 8:45 am]
BILLING CODE 4333-15-C

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