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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. APHIS–2013–0021]

User Fees for Agricultural Quarantine and Inspection Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending our regulations governing the user fees charged for certain Agricultural Quarantine and Inspection (AQI) services. We are reducing the fees charged to remove surcharges that were intended to fund a reserve. This action is necessary in order to ensure the regulations reflect an operational reduction of AQI fees that was announced through a November 1, 2022, Stakeholder Registry announcement, issued to comply with a September 15, 2022, judgment of the United States District Court for the District of Columbia, and which took effect on December 1, 2022.

DATES: Effective March 17, 2023.

FOR FURTHER INFORMATION CONTACT: Mr. George Balady, Senior Regulatory Policy Specialist, APHIS, 4700 River Road, Unit 131, Riverdale, MD 20737 1231; (301) 851–2338; email: *AQI.User.Fees@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Food, Agriculture, Conservation, and Trade (FACT) Act of 1990 (21 U.S.C. 136a) authorizes the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture to collect user fees to fully fund its agricultural quarantine and inspection (AQI) services program. These user fees must be sufficient to cover the costs of:

- Providing AQI services in connection with the arrival, at a port in the customs territory of the United States, of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car (21 U.S.C. 136a(a)(1)(A));
- Providing preclearance or preinspection at a site outside the customs territory of the United States of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car (21 U.S.C. 136a(a)(1)(A));
- Administering the AQI Program (21 U.S.C. 136a(a)(1)(B)); and
- Through fiscal year 2002, maintaining a reasonable balance in the AQI User Fee Account also established by the Act (21 U.S.C. 136a(a)(1)(C)).

In the April 25, 2014, **Federal Register** (79 FR 22895–22908, Docket No. APHIS–2013–0021), we issued a proposal to update the methodology by which APHIS would calculate AQI user fees for the user fee classes subject to 21 U.S.C. 136a. Relying on this updated methodology, we also proposed new AQI user fee rates. Such a change was necessary to address historic underfunding of the AQI program.

Following a comment period and review of public comments, on October 29, 2015, we issued a final rule in the **Federal Register** to revise the AQI user fees (80 FR 66748–66779; Docket No. APHIS–2013–0021).[1] Under the 2015 final rule, four of the user fees (for commercial trucks and truck transponders, international air passengers, and international cruise ship passengers) included a 3.5 percent reserve surcharge above unit cost as part of the fee structure. All other fees set in the 2015 final rule were set at or slightly below unit cost and, therefore, did not include a reserve surcharge, and accordingly did not collect for maintenance of the reserve.

On May 13, 2016, the Air Transport Association of America and the International Air Transport Association filed suit against APHIS, claiming the final rule updating the fees for its AQI program violated the FACT Act and the Administrative Procedure Act. On June 21, 2022, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that rejected the bulk of the challenges to APHIS's fee-setting. *See Air Transport Ass'n of Am.* v. *United States Dep't of Agric.,* 37 F.4th 667 (D.C. Cir. 2022). However, the Court held that APHIS' authority to set and collect fees at a level to fund a reserve expired in 2002. The Court remanded this issue to the United States District Court for the District of Columbia for proceedings consistent with the appellate court's opinion. On September 15, 2022, the District Court issued a final judgment vacating the final rule only insofar as it authorizes collecting fees to maintain a reserve account.

Consistent with this September 15, 2022, final judgment, on November 1, 2022, APHIS issued a Stakeholder Registry[2] announcement stating that we were removing the 3.5 percent reserve surcharge from each fee class to which it had been applied and, effective December 1, 2022, no longer collecting the reserve component for AQI user fees.

This rule codifies that change in operational policy by revising the regulations to reflect the new fee rates.

Effective Date

The Court held that APHIS' authority to collect fees sufficient to maintain a reserve expired after fiscal year 2002 and, therefore, the 2015 final rule violated the FACT Act to the extent it set user fees at a level sufficient to maintain a reasonable balance in the AQI user fee account (*See Air Transport Ass'n of Am.,* 37 F.4th at 673). However, the Court upheld the remaining aspects of the 2015 final rule with respect to all other challenges. As a result of the September 15, 2022, final judgment, the Agency is legally obligated to remove the reserve surcharge from any fees that were set at a level to include such a surcharge. Accordingly, on November 1, 2022, APHIS issued a Stakeholder Registry announcement operationally removing the surcharge from any fees that had been set to include it, thereby lowering those fees, effective December 1, 2022. In that same announcement, APHIS set forth its basis for lowering the fees operationally and without opportunity for public comment.

[1] To view the proposed rule, its supporting documents, the comments that we received, or the final rule, go to *https://www.regulations.gov/docket/APHIS-2013-0021.*

[2] To view the Stakeholder Registry announcement, go to: *https://www.aphis.usda.gov/aphis/newsroom/stakeholder-info/sa_by_date/sa-2022/aqi-user-fees-response.*

In the announcement, APHIS indicated that we would ''publish a final rule in the **Federal Register** to codify this administrative action.'' Insofar as this rule codifies current Agency operational policy and ensures alignment between the fees operationally assessed and the fee levels set forth in the regulations, this rule pertains to Agency procedure, and is thus exempt from the need for public comment pursuant to paragraph (b)(3) of 5 U.S.C. 553. Moreover, the good cause that APHIS found for making the Stakeholder Registry announcement effective without prior public comment remains and applies equally to this rule; no public comment could alter the Court's mandate to vacate the portion of the final rule that collects fees to maintain a reserve. Finally, this rule is exempt from Executive Orders 12866 and 12988, and is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 501).

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 354

Animal diseases, Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, we are amending 7 CFR part 354 as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

■ 1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 354.3 is amended by revising the table in paragraph (c)(1) and by revising paragraph (f)(1) to read as follows:

§ 354.3 User fees for certain international services.

* * * * *

(c) * * *

(1) * * *

TABLE 2 TO PARAGRAPH (c)(1)

Effective date	Amount
Beginning March 17, 2023	$7.29

* * * * *

(f) *Fee for inspection of international passengers.* (1) Except as specified in paragraph (f)(2) of this section, each passenger aboard a commercial aircraft or cruise ship who is subject to inspection under part 330 of this chapter or 9 CFR, chapter I, subchapter D, upon arrival from a place outside of the customs territory of the United States, must pay an AQI user fee. The AQI user fee will apply to tickets purchased beginning March 17, 2023. The fees are shown in the following table:

TABLE 5 TO PARAGRAPH (f)(1)

Effective dates [1]	Passenger type	Amount
Beginning March 17, 2023	Commercial aircraft	$3.83
Beginning March 17, 2023	Cruise ship	1.68

[1] Persons who issue international airline and cruise line tickets or travel documents are responsible for collecting the AQI international airline passenger user fee and the international cruise ship passenger user fee from ticket purchasers. Issuers must collect the fee applicable at the time tickets are sold. In the event that ticket sellers do not collect the AQI user fee when tickets are sold, the air carrier or cruise line must collect the user fee that is applicable at the time of departure from the passenger upon departure.

* * * * *

Done in Washington, DC, this 9th day of March 2023.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–05280 Filed 3–16–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 208

[CIS No. 2741–23; DHS Docket No. USCIS–2020–0017]

RIN 1615–AC59

Asylum Interview Interpreter Requirement Modification Due to COVID–19

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: Temporary final rule; extension.

SUMMARY: The Department of Homeland Security (DHS) is extending, for a fourth time, the effective date (for 180 days) of its temporary final rule that modified certain regulatory requirements to help ensure that USCIS may continue with affirmative asylum adjudications during the COVID–19 pandemic.

DATES: This temporary final rule is effective from March 16, 2023 through September 12, 2023. As of March 16, 2023, the expiration date of the temporary final rule published at 85 FR 59655 (Sept. 23, 2020), which was extended at 86 FR 15072 (Mar. 22, 2021), at 86 FR 51781 (Sept. 17, 2021), and at 87 FR 14757 (Mar. 16, 2022), is further extended from March 16, 2023 through September 12, 2023.

FOR FURTHER INFORMATION CONTACT: René Cutlip-Mason, Chief, Division of Humanitarian Affairs, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Drive, Camp Springs, MD 20588–0009; telephone (240) 721–3000 (not a toll-free call).

Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

I. Legal Authority To Issue This Rule and Other Background

A. Legal Authority

The Secretary of Homeland Security (Secretary) takes this action pursuant to his authorities concerning asylum determinations. The Homeland Security Act of 2002 (HSA), Public Law 107–296, as amended, transferred many functions related to the execution of Federal immigration law to the newly created DHS. The HSA amended the Immigration and Nationality Act (INA or the Act), charging the Secretary ''with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens,'' INA 103(a)(1), 8 U.S.C.

1103(a)(1), and granting the Secretary the power to take all actions ''necessary for carrying out'' the immigration laws, including the INA, *id.* 1103(a)(3). The HSA also transferred to DHS responsibility for affirmative asylum applications made outside the removal context. HSA 451(b)(3); 6 U.S.C. 271(b)(3) (providing for the transfer of adjudication of asylum and refugee applications from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services, now USCIS). USCIS asylum officers determine, in the first instance, whether a noncitizen's [1] affirmative asylum application should be granted. *See* 8 CFR 208.4(b), 208.9. Generally, the Department of Justice Executive Office for Immigration Review adjudicates asylum applications filed by noncitizens who are in removal proceedings. *See* INA 103(g), 240; 8 U.S.C. 1103(g), 1229a.

B. Legal Framework for Asylum

Asylum is a discretionary benefit that generally can be granted to eligible noncitizens who are physically present or who arrive in the United States, irrespective of their status, subject to the requirements in section 208 of the INA, 8 U.S.C. 1158, and implementing regulations, *see* 8 CFR parts 208, 1208.

Section 208(d)(5) of the INA, 8 U.S.C. 1158(d)(5), imposes several mandates and procedural requirements for the consideration of asylum applications. Congress also specified that the Attorney General and Secretary of Homeland Security ''may provide by regulation for any other conditions or limitations on the consideration of an application for asylum,'' so long as those conditions or limitations are ''not inconsistent with this chapter.'' INA 208(d)(5)(B), 8 U.S.C. 1158(d)(5)(B). Thus, the current statutory framework leaves the Attorney General (and, after the HSA, also the Secretary) significant discretion to regulate consideration of asylum applications. USCIS regulations promulgated under this authority set agency procedures for asylum interviews and require that applicants unable to communicate in English ''must provide, at no expense to the USCIS, a competent interpreter fluent in both English and the applicant's native language or any other language in which the applicant is fluent.'' 8 CFR 208.9(g)(1). This requirement means that all asylum applicants who cannot communicate in English must bring an interpreter to their interview. However, doing so, as required by the regulation, has posed a serious health risk because of the COVID–19 pandemic.

Accordingly, this temporary final rule extends the rule published at 85 FR 59655, for a fourth time, to continue to mitigate the spread of COVID–19 by seeking to slow the transmission and spread of the disease during asylum interviews before USCIS asylum officers while the COVID–19 national emergency and public health emergency (PHE) are still in effect. On January 30, 2023, the Administration announced its plan to extend the emergency declarations to May 11, 2023, and then end both emergencies on that date.[2] Consistent with that announcement, President Biden has extended the COVID–19 national emergency and announced that he anticipates terminating it on May 11, 2023.[3] Likewise, the Department of Health and Human Services (HHS) has extended the PHE [4] and stated that it is planning for the PHE to end on May 11, 2023.[5] The fourth extension of this temporary final rule provides some additional time following the expiration of the national and public health emergencies to allow USCIS to properly operationalize the return to the requirement that asylum applicants provide interpreters at their asylum interviews while also giving sufficient notice to the public of the expiration of this temporary final rule and reversion to past practice. To that end, this temporary final rule will extend for 180 days the requirement that allows noncitizens to use USCIS-provided interpreters during affirmative asylum interviews in certain instances. This temporary final rule also provides that, while the rule is in effect, if a USCIS interpreter is unavailable, USCIS will either reschedule the interview and attribute the interview delay to USCIS for the purposes of employment authorization under 8 CFR 208.7, or USCIS may, in its discretion, allow the applicant to provide an interpreter.

C. The COVID–19 Pandemic

On January 31, 2020, the Secretary of Health and Human Services declared a public health emergency under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID–19, which is caused by SARS–CoV–2.[6] On March 13, 2020, the President declared a National Emergency concerning the COVID–19 pandemic.[7] As of February 1, 2023, there have been over 753 million confirmed cases of COVID–19 identified globally, resulting in more than 6.8 million deaths.[8] Approximately 100,941,827 cases have been identified in the United States, with about 287,580 new cases identified during the week of January 23, 2023, and approximately 1,097,246 reported deaths due to the disease.[9] A more detailed background discussion of the COVID–19 pandemic is found in the original temporary final rule, as well as in the first and second extensions of the rule, and USCIS incorporates the discussions of the pandemic into this extension. *See* 85 FR 59655 (Sept. 23, 2020); 86 FR 15072 (Mar. 22, 2021); 86 FR 51781 (Sept. 17, 2021).

Since publication of the original temporary final rule, variants of the virus that causes COVID–19 have been reported in the United States.[10] Following the first COVID–19 Omicron variant case reported in the United States, on December 1, 2021, there was a rapid increase in infections and hospitalizations with multiple large clusters of outbreaks that peaked in mid-January 2022.[11] Although vaccines

[1] For purposes of the discussion in this preamble, DHS uses the term ''noncitizen'' colloquially to be synonymous with the term ''alien'' as it is used in the INA. *See* INA 101(a)(3), 8 U.S.C. 1101(a)(3); *Barton* v. *Barr,* 140 S. Ct. 1442, 1446 n.2 (2020) (''This opinion uses the term ''noncitizen'' as equivalent to the statutory term ''alien.'' *See* 8 U.S.C. 1101(a)(3)''). DHS also uses the term ''individuals.''

[2] Statement of Administration Policy (Jan. 30, 2023), *https://www.whitehouse.gov/wp-content/uploads/2023/01/SAP-H.R.-382-H.J.-Res.-7.pdf* (last visited Mar. 2, 2023).

[3] Notice on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID–19) Pandemic, 88 FR 9385 (Feb. 14, 2023).

[4] Department of Health and Human Services (HHS), Renewal of Determination that a Public Health Emergency Exists (Feb. 9, 2023), *https://aspr.hhs.gov/legal/PHE/Pages/COVID19-9Feb2023.aspx* (last visited Feb. 27, 2023).

[5] HHS, COVID–19 Public Health Emergency (PHE), *https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html* (last visited Mar. 2, 2023).

[6] Department of Health and Human Services (HHS), Determination that a Public Health Emergency Exists (Jan. 31, 2020), *https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx* (last visited Jan. 12, 2023).

[7] Proclamation 9994 of March 13, 2020, Declaring a National Emergency Concerning the Coronavirus Disease (COVID–19) Outbreak, 85 FR 15337 (Mar. 18, 2020).

[8] WHO Coronavirus (COVID–19) Dashboard (updated Feb. 1 2023), *https://covid19.who.int/* (last visited Feb. 1, 2023).

[9] *Id.*

[10] Centers for Disease Control and Prevention (CDC), SARS–CoV–2 Variant Classifications and Definitions (updated Apr. 26, 2022), *https://www.cdc.gov/coronavirus/2019-ncov/variants/variant-classifications.html* (last visited Jan. 12, 2023).

[11] CDC, Rapid Increase of Omicron Variant Infections in the United States: Management of Healthcare Personnel with SARS–CoV–2 Infection or Exposure (Dec. 24, 2021), *https://emergency.cdc.gov/han/2021/pdf/CDC_HAN_460.pdf* (last visited Jan. 12, 2023); CDC, Potential Rapid Increase of Omicron Variant Infections in the United States (updated Dec. 20, 2021), *https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/mathematical-modeling-outbreak.html*

Continued

are now widely accessible, there is wide disparity in the percentages of who have received updated boosters.[12] Indeed, ongoing research demonstrates that while the effectiveness of authorized and approved COVID–19 vaccines against death, serious disease, and hospitalization remains high, their effectiveness against milder symptomatic disease wanes over time, and thus CDC guidance states that eligible individuals should receive COVID–19 vaccine booster shots after certain periods of time.[13] CDC reports also show that individuals who are unvaccinated have a greater risk of testing positive for COVID–19 and a greater risk of dying from COVID–19 than individuals who are fully vaccinated.[14] While vaccines offer protection against variants, Centers for Disease Control and Prevention (CDC) data from January 2023 indicated that an Omicron subvariant, XBB.1.5, had quickly become a higher percentage of total COVID–19 cases in the United States, accounting for 61.3 percent of new cases.[15] This subvariant only accounted for approximately 10 percent of new cases in early December 2022.[16] Even with the emergence of this new variant, the number of COVID–19 infections and hospitalizations in the United States has greatly decreased since the peak in mid-January 2022.[17]

II. Purpose of This Temporary Final Rule

USCIS continues its efforts to protect the health and safety of its employees and the public by requiring all federal employees, on-site contractors, and visitors to follow local USCIS guidance on physical distancing and workplace protection consistent with updated Federal guidance.[18]

USCIS conducted 32,012 total asylum interviews between September 23, 2020 and March 7, 2022. While maintaining public safety measures pursuant to its response to COVID–19,[19] USCIS simultaneously began increasing its affirmative asylum interviews in order to best serve the public. Between March 7, 2022 and January 24, 2023, USCIS conducted an additional 27,405 asylum interviews. The original temporary final rule, implemented on September 23, 2020, and its extensions implemented on March 22, 2021, September 20, 2021, and March 16, 2022, as well as other noted public safety measures, have helped mitigate the impact of COVID–19 and have been effective in keeping the USCIS workforce and the public safe. As of September 17, 2022, there have been 6,807 confirmed cases of COVID–19 among USCIS employees and contractors.

DHS has determined that it is in the best interest of the public and USCIS employees and contractors to extend the temporary final rule for 180 days. This period includes the time until May 11, 2023, while the emergency declarations remain in effect, and a period thereafter to allow USCIS a sufficient period to properly operationalize the return to the requirement that asylum applicants provide interpreters at their asylum interviews. Providing for a 180-day extension also gives sufficient notice to the public of the expiration of this temporary final rule and reversion to past practice.

Under this fourth extension, USCIS will continue requiring asylum applicants who are unable to proceed with the interview in English to use government-provided telephonic contract interpreters if the applicants speak one of the 47 languages found on the Required Languages for Interpreter Services Blanket Purchase Agreement/U.S. General Services Administration Language Schedule (GSA Schedule). If the applicant does not speak a language on the GSA Schedule or elects to speak a language that is not on the GSA Schedule, the applicant will be required to bring their own interpreter to the interview who is fluent in English and the elected language not on the GSA schedule. In the second extension of the temporary final rule, published at 85 FR 59655, DHS also amended 8 CFR 208.9(h)(1) by allowing, in USCIS' discretion, an applicant for asylum to provide an interpreter when a USCIS interpreter is unavailable. *See* 86 FR 51781. Specifically, if a USCIS interpreter is unavailable, USCIS will either reschedule the interview and attribute the interview delay to USCIS for the purposes of employment authorization pursuant to 8 CFR 208.7, or USCIS may, in its discretion, allow the applicant to provide an interpreter.

DHS incorporates into this fourth extension, the justifications from the original temporary final rule and all subsequent extensions. The measures implemented since the original temporary final rule to protect employees, asylum applicants, and other members of the public, continue to be a priority for USCIS. Additionally, the modification to the second extension (*i.e.,* USCIS exercising discretion to allow an asylum applicant to bring an interpreter to the interview if a contract interpreter is unavailable), will remain in place. The modification has given USCIS flexibility to plan ahead in the limited circumstances when a contract interpreter is expected to be unavailable for an asylum interview, reducing the likelihood of canceled interviews and unused office space. This fourth extension also incorporates the discussions on the overall benefits of providing telephonic contract interpreters in reducing the risk of contracting COVID–19 for applicants, attorneys, interpreters, and USCIS employees, from the original temporary final rule and all extensions.

(last visited Jan. 12, 2023); CDC, COVID Data Tracker—Trends in Number of COVID–19 Cases and Deaths in the U.S. Reported to CDC, by State/Territory (updated Dec. 28, 2022), *https://covid.cdc.gov/covid-data-tracker/#trends_dailycases* (last visited Jan. 12, 2023); CDC, COVID Data Tracker: New Admissions of Patients with Confirmed COVID–19 Per 100,000 Population by Age Group, United States (updated Jan. 24, 2023), *https://covid.cdc.gov/covid-data-tracker/#new-hospital-admissions* (last visited Jan. 25, 2023).

[12] CDC, COVID Data Tracker—COVID–19 Vaccinations in the United States (updated Jan. 26, 2023), *https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-total-admin-rate-total* (last visited Feb. 1, 2023).

[13] CDC, Stay Up to Date with Vaccines (updated Jan. 9, 2023), *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html* (last visited Jan. 12, 2023); FDA, COVID–19 Frequently Asked Questions (updated Dec. 8, 2022), *https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-frequently-asked-questions* (last visited Jan. 12, 2023); CDC, Waning 2-Dose and 3-Dose Effectiveness of mRNA Vaccines Against COVID–19–Associated Emergency Department and Urgent Care Encounters and Hospitalizations Among Adults During Periods of Delta and Omicron Variant Predominance—VISION Network, 10 States, August 2021–January 2022, Feb. 11, 2022, *https://www.cdc.gov/mmwr/volumes/71/wr/mm7107e2.htm* (last visited: March 8, 2023).

[14] CDC, Rate of COVID–19 Cases and Deaths by Vaccination Status, *https://covid.cdc.gov/covid-data-tracker/#rates-by-vaccine-status* (last visited Jan. 12, 2023).

[15] CDC, COVID Data Tracker-Variant Proportions (updated Jan. 28, 2023), *https://covid.cdc.gov/covid-data-tracker/#variant-proportions* (last visited Feb. 1, 2023); Aliza Rozen, What You Need to Know About XBB.1.5, the Latest Omicron Variant, Johns Hopkins Bloomberg School of Public Health (Jan. 6, 2023), *https://publichealth.jhu.edu/2023/what-you-need-to-know-about-xbb15-the-latest-omicron-variant* (last visited Jan. 12, 2023); Early Estimates of Bivalent mRNA Booster Dose Vaccine Effectiveness in Preventing Symptomatic SARS–CoV–2 Infection Attributable to Omicron BA.5- and XBB/XBB.1.5-Related Sublineages Among Immunocompetent Adults—Increasing Community Access to Testing Program, United States, December 2022–January 2023 (updated Feb. 3, 2023), *https://www.cdc.gov/mmwr/volumes/72/wr/mm7205e1.htm* (last visited: March 6, 2023).

[16] *Id.*

[17] CDC, COVID Data Tracker: New Admissions of Patients with Confirmed COVID–19 Per 100,000 Population by Age Group, United States (updated Jan. 24, 2023), *https://covid.cdc.gov/covid-data-tracker/#new-hospital-admissions* (last visited Jan. 25, 2023).

[18] USCIS Response to COVID–19 (updated Oct. 24, 2022), *https://www.uscis.gov/about-us/uscis-response-to-covid-19* (last visited Jan. 12, 2023).

[19] *See id.*

III. Discussion of Regulatory Change: 8 CFR 208.9(h) [20]

DHS has determined that there are reasonable grounds for considering potential exposure to SARS–CoV–2, including any emerging variants, as a public health concern and that these grounds are sufficient to extend the temporary final rule modifying the interpreter requirements for asylum applicants in order to lower the number of in-person attendees at asylum interviews. Additionally, this extension of this temporary final rule provides additional time following the expiration of the national and public health emergencies to allow USCIS to properly operationalize the return to the requirement that asylum applicants provide interpreters at their asylum interviews while also giving sufficient notice to the public of the expiration of this temporary final rule and reversion to past practice. For 180 days following publication of this temporary final rule, DHS will continue to require non-English speaking asylum applicants appearing before USCIS to proceed with the asylum interview using USCIS' interpreter services if they are fluent in one of the 47 languages as discussed in the temporary final rule at 85 FR at 59657.[21]

Additionally, as provided in 8 CFR 208.9(h)(1)(i), DHS will continue to allow, in USCIS' discretion, an applicant for asylum to provide an interpreter when a USCIS interpreter is unavailable. The reasons for this are in large part due to the increase in the affirmative asylum caseload that USCIS has experienced during the COVID–19 pandemic. That, in turn, has created challenges in accommodating the interpretation needs of asylum applicants while balancing workplace health and safety concerns. In order to best serve applicants while keeping employees and the public safe, USCIS has set limits on the number of people allowed in each individual interview space, inclusive of the asylum officer. Requiring applicants to use USCIS contract interpreters assists the agency in adhering to evolving COVID–19 health and safety standards. While USCIS continues to increase scheduling of affirmative asylum interviews, surges in other case types have also required USCIS to divert contract interpreter resources away from affirmative asylum. For this reason, allowing USCIS the continued discretion to permit an applicant to bring their own interpreter to the asylum interview assists the agency in balancing needs. These ongoing challenges require USCIS to keep the interpreter procedures in place for an additional 180 days.

In these circumstances, if a USCIS interpreter is unavailable, USCIS will either reschedule the interview and attribute the interview delay to USCIS for the purposes of employment authorization pursuant to 8 CFR 208.7, or USCIS may, in its discretion, allow the applicant to provide an interpreter.[22] The interpreter will be required to follow USCIS COVID–19 protocols in place at the time of the interview.

Once this temporary final rule is no longer in effect, asylum applicants unable to proceed in English with an affirmative asylum interview based on a Form I–589, Application for Asylum and for Withholding of Removal, before a USCIS asylum officer will be required to provide their own interpreters under 8 CFR 208.9(g).

Given the unique nature of the pandemic and the multiple challenges it has presented in the context of USCIS operations, the agency has had to modify its policies and procedures to adapt. Through the original temporary final rule and the first, second and third extensions, USCIS has and continues to adapt and modify its procedures to keep the workforce and public safe while also striving to serve its customers.[23] Outside of this rule, USCIS has adapted to the pandemic by developing automatic workflows for conducting interviews and completing the adjudication, and by monitoring language trends and interpreter availability.

DHS noted in the original temporary final rule and prior extensions that it would evaluate the public health concerns and resource allocations to determine whether to extend the rule. DHS has determined that extending this temporary final rule is necessary for public safety. Accordingly, DHS is extending this temporary final rule for 180 days for a fourth time through the anticipated end of the national and public health emergencies. This temporary final rule continues to apply to all affirmative asylum interviews conducted by USCIS across the nation. USCIS has determined that an extension of 180 days is appropriate given present conditions: emergency declarations remain in effect and there were 3,950 average daily new hospital admissions of patients with confirmed COVID–19 from January 24, 2023, to January 30, 2023.[24] The extension of 180 days will also permit time beyond the anticipated end of the emergency declarations on May 11, 2023, to allow USCIS to properly operationalize the return to the requirement that asylum applicants provide interpreters at their asylum interviews while also giving sufficient notice to the public of the expiration of this temporary final rule and reversion to past practice.

USCIS first published this temporary final rule on September 23, 2020, and subsequently found it necessary to publish three extensions to continue its mitigation efforts because of the ongoing pandemic.[25] The initial temporary final rule, the first, and the second extensions each had an effective period of 180 days, with the third extension having an effective period of 365 days, resulting in this temporary final rule being in effect for 905 days thus far.[26] Compared to the third extension, current CDC data supports this shorter extension of the temporary final rule, as it demonstrates that while the pandemic is ongoing, new infection and hospitalization rates continue to decrease throughout the United States.[27] Considering the period of time that the pandemic has been ongoing, the number of times USCIS has had to extend this temporary final rule, the extension of the emergency declarations to May 11, 2023, and USCIS' operational needs to provide sufficient notice to the public regarding the return to the requirement for applicants to provide their own interpreter, USCIS has determined that an additional extension of 180 days will

[20] The interpreter interview provisions can be found in two parallel sets of regulations: Regulations under the authority of DHS are contained in 8 CFR part 208; and regulations under the authority of the Department of Justice (DOJ) are contained in 8 CFR part 1208. Each set of regulations contains substantially similar provisions regarding asylum interview processes, and each articulates the interpreter requirement for interviews before an asylum officer. *Compare* 8 CFR 208.9(g), *with* 8 CFR 1208.9(g). This temporary final rule and its extensions revise only the DHS regulations at 8 CFR 208.9. Notwithstanding the language of the parallel DOJ regulations in 8 CFR 1208.9, as of the effective date of this action, the revised language of 8 CFR 208.9(h) is binding on DHS and its adjudications for 180 days. DHS is not bound by the DOJ regulation at 8 CFR 1208.9(g).

[21] DHS notes that this extension does not modify 8 CFR 208.9(g); rather the extension of the temporary final rule is written so that asylum interviews occurring while the temporary final rule is effective will be bound by the requirements at 8 CFR 208.9(h).

[22] 8 CFR 208.9(h)(1)(i).

[23] USCIS Response to COVID–19 (updated Oct. 24, 2022), *https://www.uscis.gov/about-us/uscis-response-to-covid-19* (last visited Jan. 12, 2023).

[24] *Id.;* CDC, COVID Data Tracker: New Admissions of Patients with Confirmed COVID–19 Per 100,000 Population by Age Group, United States (updated Feb. 1, 2023), *https://covid.cdc.gov/covid-data-tracker/#new-hospital-admissions* (last visited Feb. 2, 2023).

[25] *See* 85 FR 59655 (Sept. 23, 2020); 86 FR 15072 (Mar. 22, 2021); 86 FR 51781 (Sept. 17, 2021); 87 FR 14757 (Mar. 16, 2022).

[26] *Id.*

[27] *Id.*

continue to serve the needs of the public and the agency. Extending this temporary final rule for 180 days will provide the public and USCIS with greater certainty and predictability about how long these mitigation efforts will remain in place. That is, with the additional time, the agency can proactively plan ahead and focus on providing consistent services to asylum applicants rather than expending limited resources frequently changing procedures and re-issuing guidance to staff and the public.

Recognizing that the circumstances of COVID–19 continue to evolve, DHS continues to constantly evaluate the public health concerns and its mitigation efforts. As conditions improve and the health concerns posed by COVID–19 continue to ease during the time period of this fourth extension of the temporary final rule, DHS will use the remaining time following the end of the declared COVID–19 emergencies to operationalize a return to the prior practice of applicants providing their own interpreter at their asylum interview while also ensuring the public is aware of this change. USCIS recognizes that for many applicants, hiring an interpreter for the asylum interview may be a costly expense and often requires travel and early scheduling. By extending the temporary final rule beyond the expiration of the national and public health emergencies, USCIS aims to provide the public with enough time to make necessary interpreter arrangements for an asylum interview if their interview is scheduled after the expiration of this temporary final rule. During this time, USCIS will analyze the practice of USCIS providing contract interpreters at affirmative asylum interviews to determine whether there may be a future need for USCIS to provide contract interpreters and in which circumstances this would be most beneficial to the government and the public. USCIS will also use the time after expiration of the national and public health emergencies to operationalize the changes. Given the significant length of time that USCIS has required applicants to use contracted interpreters under the previous iterations of the temporary final rule, USCIS believes this additional time for the winding down of operations is necessary to provide the public adequate notice of the return to previous practice. In order to operationalize these changes, USCIS will provide notice to the public by updating the USCIS website and modifying interview notices and any other related correspondence sent to applicants and attorneys. USCIS will notify field office staff of the reversion to prior practice by providing updated guidance, sending internal communications with updated messaging to the asylum offices, and modifying existing procedures. USCIS will also conduct outreach to stakeholders, including nonprofits, legal representatives, and community organizations, to ensure that asylum applicants are aware of the reversion to prior practice as early as possible. USCIS recognizes that for many applicants, hiring an interpreter for the asylum interview may be a costly expense and often requires travel and early scheduling, especially where the applicant speaks a less common language. A winddown period past the end of the emergency declarations will allow asylum applicants and representatives time to prepare, make alternate arrangements, and gather the necessary funds to pay for interpreter services. The winddown period will consequently help reduce the likelihood of interview reschedules when an applicant is unable to bring their own interpreter, and thus also minimize the potential impact on an applicant's eligibility for employment authorization. This is because the reversion to prior practice will require that when the applicant does not provide their own interpreter, the interview delay is attributed to the applicant for purposes of employment authorization under 8 CFR 208.7. Interview delays attributed to the applicant slow the time before the applicant is eligible to apply for work authorization. By extending the temporary final rule beyond the end of the national emergencies, USCIS can facilitate an orderly and efficient return to prior practice and alleviate the burden these changes may place on applicants and contracted interpreter services.

IV. Regulatory Requirements

A. Administrative Procedure Act (APA)

DHS is issuing this extension as a temporary final rule pursuant to the APA's ''good cause'' exception. DHS may forgo notice-and-comment rulemaking and a delayed effective date because the APA provides an exception from those requirements when an agency ''for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B); *see* 5 U.S.C. 553(d)(3).

The good cause exception for forgoing notice-and-comment rulemaking ''excuses notice and comment in emergency situations, or where delay could result in serious harm.'' *Jifry* v. *FAA,* 370 F.3d 1174, 1179 (D.C. Cir. 2004); *see Util. Solid Waste Activities Group* v. *E.P.A,* 236 F.3d 749, 7554 (D.C. Cir. 2001) (exception applies when an agency finds that due and timely execution of its functions would be impeded by the notice otherwise required . . . , as when a safety investigation shows that a new safety rule must be put in place immediately'' (quotation marks and alterations omitted)). This is such a situation, with the prior extension of this temporary final rule set to expire in March 2023.

As of February 1, 2023, there have been over 753 million confirmed cases of COVID–19 identified globally, resulting in more than 6.8 million deaths.[28] Approximately 100,941,827 cases have been identified in the United States, with about 287,580 new cases identified during the week of January 23, 2023, and approximately 1,097,246 reported deaths due to the disease.[29] Additionally, CDC is monitoring several variants of the virus that causes COVID–19.[30] Evidence suggests that some variants may spread faster and more easily than others and at least one variant may be associated with an increased risk of severe illness.[31] In January 2023, CDC most recently highlighted Omicron subvariant XBB.1.5, which is highly transmissible and now accounts for 61.3 percent of new COVID–19 cases in the United States.[32] Although vaccines are widely accessible, there is wide disparity in the percentages of who have received updated boosters.[33] Indeed, ongoing research demonstrates that while there is high effectiveness of approved vaccines among eligible individuals, individuals completing the primary series alone continue to experience breakthrough COVID–19 infections and may be either symptomatic or

[28] WHO Coronavirus (COVID–19) Dashboard (updated Feb. 01, 2023), *https://covid19.who.int/* (last visited Feb. 1, 2023).

[29] *Id.*

[30] CDC, SARS–CoV–2 Variant Classifications and Definitions (updated Apr. 26, 2022), *https://www.cdc.gov/coronavirus/2019-ncov/variants/variant-classifications.html* (last visited Jan. 12, 2023).

[31] CDC, What You Need to Know About Variants (updated Aug. 11, 2021), *https://www.cdc.gov/coronavirus/2019-ncov/variants/variant.html* (last visited Jan. 12, 2023).

[32] CDC, COVID Data Tracker-Variant Proportions (updated Jan. 28, 2023), *https://covid.cdc.gov/covid-data-tracker/#variant-proportions* (last visited Feb. 1, 2023); Aliza Rozen, What You Need to Know About XBB.1.5, the Latest Omicron Variant.

[33] CDC, COVID Data Tracker—COVID–19 Vaccinations in the United States (updated Jan. 26, 2023), *https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-total-admin-rate-total* (last visited Feb. 1, 2023).

asymptomatic.[34] CDC reports also show that individuals who are unvaccinated have a greater risk of testing positive for COVID–19 and a greater risk of dying from COVID–19 than individuals who are fully vaccinated.[35]

As of January 24, 2023, USCIS had 697,290 asylum applications pending final adjudication. The vast majority of these pending applications are awaiting an interview by an asylum officer. The USCIS backlog will continue to increase at a faster pace if USCIS is unable to safely and efficiently conduct asylum interviews.[36]

Upon the Administration's January 2023 announcement of its plan to extend the emergency declarations through May 11, 2023, it became clear to USCIS that another extension of this temporary final rule, which otherwise would expire in March 2023, would be warranted. However, that did not leave DHS with sufficient time to provide notice and receive comment before the expiration of the third extension of this rule. DHS is thus publishing this fourth extension as a temporary final rule. As discussed more thoroughly above, given the continuing national emergency caused by COVID–19, and the extension of the emergency declarations through May 11, 2023, there are still urgent and compelling reasons to extend and continue this temporary final rule. The temporary final rule is limited in application to only those asylum applicants who cannot proceed with the interview in English and narrowly tailored to mitigate the spread of COVID–19. Extending the temporary final rule will allow USCIS to better manage how many people attend asylum interviews and the precautions used during those interviews, thereby reducing the likelihood of COVID–19 transmission and protecting the health and safety of USCIS employees and asylum applicants. To not extend this measure could cause serious detriment to public safety and health.

[34] CDC, The Possibility of COVID–19 after Vaccination: Breakthrough Infections (updated June 23, 2022), *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/why-measure-effectiveness/breakthrough-cases.html* (last visited Jan. 12, 2023).

[35] CDC, Rate of COVID–19 Cases and Deaths by Vaccination Status, *https://covid.cdc.gov/covid-data-tracker/#rates-by-vaccine-status* (last visited Jan. 12, 2023).

[36] DHS recognizes that the backlog has increased since the original temporary final rule was extended; however, if all applicants were required to bring their own interpreter as was done pre-COVID–19, the interpreter may have to sit in a separate office during the interview to mitigate potential COVID–19 exposure, thereby reducing available office space to schedule additional interviews in a safe manner. This would likely increase the backlog at a faster rate than under this rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). A regulatory flexibility analysis is not required when a rule is exempt from notice-and-comment rulemaking.

C. Unfunded Mandates Reform Act of 1995

This temporary final rule extension 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. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

D. Small Business Regulatory Enforcement Fairness Act of 1996

OMB's Office of Information and Regulatory Affairs has determined that this action is not a major rule as defined by Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act). 5 U.S.C. 804(2). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

E. Executive Order 12866 and Executive Order 13563

Executive Orders (E.O.) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule is designated a significant regulatory action under E.O. 12866. Accordingly, the Office of Management and Budget (OMB) has reviewed this regulation. DHS, however, is proceeding under the emergency provision of Executive Order 12866 Section 6(a)(3)(D) based on the need to move expeditiously during the current public health emergency which has been extended past the expiration of the third temporary final rule extension until May 11, 2023.

This action will continue to help asylum applicants proceed with their interviews in a safe manner, while protecting agency staff throughout the next year or until the health concerns posed by COVID–19 are resolved. As a result of the temporary final rule and subsequent extensions, USCIS conducted 32,012 total asylum interviews between September 23, 2020 and March 7, 2022 and an additional 27,405 asylum interviews between March 7, 2022 and January 24, 2023. This fourth extension is not expected to result in any additional costs to the government. In addition, even with the provision that permits, at USCIS' discretion, an applicant for asylum to provide an interpreter when a contract interpreter is unavailable, there are no additional costs to the applicant relative to what would be the requirements if the temporary final rule were not extended. In those limited circumstances, the interpreter will still be required to follow USCIS COVID–19 protocols in place at the time of the interview. Following those COVID–19 protocols will not result in any additional costs for either the applicant or the interpreter.

Such contract interpreters will continue to be provided at no cost to the applicant. USCIS has an existing contract to provide telephonic interpretation and monitoring in interviews for all of its case types. USCIS has provided contract monitors for many years at interviews where the applicant brings an interpreter. In other words, almost all interviews that utilize a USCIS provided interpreter under this temporary final rule would have required instead a contracted monitor during asylum interviews conducted pre-pandemic. Additionally, the cost of monitoring and interpretation are identical under the current contract and monitors are no longer needed for interviews conducted through a USCIS-provided contract interpreter. Therefore, the continued extension of the temporary final rule is projected to be cost neutral or negligible for the government because USCIS is already paying for these services even without this rule.

In the limited circumstances where a contract interpreter is unavailable, USCIS will either reschedule the interview and attribute the interview delay to USCIS for the purposes of

employment authorization pursuant to 8 CFR 208.7, or USCIS may, in its discretion, allow the applicant to provide an interpreter.[37] In such cases, the applicant would be in the same position they would have been without this action.

DHS recognizes there are both quantitative and qualitative benefits that could be realized by providing an applicant for asylum the opportunity to bring their own interpreter when a contract interpreter is unavailable, such as the costs avoided that would otherwise be incurred due to rescheduling if a contract interpreter is unavailable—both for the applicant and USCIS—and the overall positive effect on applicants of having their asylum application timely adjudicated. Once this rule is no longer in effect, asylum applicants unable to proceed with an affirmative asylum interview before a USCIS asylum officer in English will again be required to provide their own interpreters under 8 CFR 208.9(g). By extending the temporary final rule beyond the end of the national emergencies, USCIS can facilitate an orderly and efficient return to prior practice and alleviate the burden these changes may place on applicants, contracted interpreter services, and USCIS offices scheduling affirmative asylum interviews.

F. Executive Order 13132 (Federalism)

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988.

H. Paperwork Reduction Act

This rule does not propose new, or revisions to existing, ''collection[s] of information'' as that term is defined under the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320. As this would only span 180 days, USCIS does not anticipate a need to update the Form I–589, Application for Asylum and for Withholding of Removal, despite the existing language on the form instructions regarding interpreters. USCIS will continue to post updates on its Form I–589 website, *https://www.uscis.gov/i-589,* and other asylum and relevant web pages regarding the interview requirements in this regulation, as well as provide personal notice to applicants via the interview notices issued to applicants prior to their interview.

[37] 8 CFR 208.9(h)(1)(i).

List of Subjects in 8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, the Secretary of Homeland Security amends 8 CFR part 208 as follows:

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 1. The authority citation for part 208 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Pub. L. 110–229; 8 CFR part 2; Pub. L. 115–218.

■ 2. Effective from March 16, 2023 through September 12, 2023, amend § 208.9 by revising paragraph (h) introductory text to read as follows:

§ 208.9 Procedure for interview before an asylum officer.

* * * * *

(h) *Asylum applicant interpreters.* For asylum interviews conducted between March 16, 2023, through September 12, 2023:

* * * * *

Alejandro Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2023–05572 Filed 3–15–23; 11:15 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0181]

Safety Zone; Fireworks Displays Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for a fireworks display at The Wharf DC on April 1, 2023, to provide for the safety of life on navigable waterways during this event. Our regulation for Fireworks Displays within the Fifth Coast Guard District identifies the safety zone for this event in Washington, DC. During the enforcement period, vessels may not enter, remain in, or transit through the safety zone unless authorized to do so by the COTP or his representative, and vessels in the vicinity must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulation in 33 CFR 165.506 will be enforced for the location identified in line no. 1 of table 2 to 33 CFR 165.506(h)(2) from 7:30 p.m. until 9:30 p.m. on April 1, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email MST2 Courtney Perry, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2596, email *MDNCRMarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone regulation for a fireworks display at The Wharf DC from 7:30 p.m. to 9:30 p.m. on April 1, 2023. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for Fireworks Displays within the Fifth Coast Guard District, § 165.506, specifies the location of the safety zone for the fireworks show, which encompasses portions of the Washington Channel in the Upper Potomac River. During the enforcement period, as reflected in § 165.506(d), if you are the operator of a vessel in the vicinity of the safety zone, you may not enter, remain in, or transit through the safety zone unless authorized to do so by the COTP or his representative, and you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

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

Dated: March 13, 2023.

David E. O'Connell,

Captain, U.S. Coast Guard, Captain of the Port, Sector Maryland-National Capital Region.

[FR Doc. 2023–05479 Filed 3–16–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0190; FRL–10783–01–OCSPP]

Paraffin Waxes and Hydrocarbon Waxes, Carboxypolymethylene Resin, and Paraffin Waxes and Hydrocarbon, Oxidized, Lithium Salts in Pesticide Formulations; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of paraffin waxes and hydrocarbon waxes, carboxypolymethylene resin, and paraffin waxes and hydrocarbon, oxidized, lithium salts when used as inert ingredients (flow aid, surface protectant, binder, carrier, coating agent or adjuvant) on growing crops and raw agricultural commodities pre- and post-harvest, applied in/on animals, and in antimicrobial formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils. Spring Regulatory Sciences, on behalf of Sasol Chemicals (USA) LLC, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of paraffin waxes and hydrocarbon waxes, carboxypolymethylene resin oxidized paraffin wax, and paraffin waxes and hydrocarbon, oxidized, lithium salts, when used in accordance with the terms of those exemptions.

DATES: This regulation is effective March 17, 2023. Objections and requests for hearings must be received on or before May 16, 2023 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0190, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP docket is (202) 566–1744. For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Daniel Rosenblatt, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–2875; 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. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-180?toc=1.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before May 16, 2023. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0190, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets#express.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Petition for Exemption

In the **Federal Register** of March 22, 2021 (86 FR 15164, FRL–10021–44), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11450) by Spring Regulatory Sciences, 6620 Cypresswood Dr., Suite 250, Spring, TX 77379, on behalf of Sasol Chemicals (USA) LLC, 12120 Wickchester Lane, Houston, TX 77224. The petition requested that 40 CFR be amended by establishing an exemption from the requirement of a tolerance for residues of paraffin waxes and hydrocarbon waxes (CAS Reg. No. 8002–74–2); carboxypolymethylene resin (CAS Reg. No. 68153–22–0) (also known as oxidized paraffin wax); and paraffin waxes and hydrocarbon, oxidized, lithium salts (CAS Reg. No. 68649–48–9), when used as an inert ingredient (flow aid, surface protectant, binder, carrier, coating agent or adjuvant) in pesticide formulations applied to growing crops and raw agricultural commodities pre- and post-harvest under 40 CFR 180.910, applied in/on animals under 40 CFR 180.930, and in antimicrobial formulations applied to food-contact surfaces in public eating places, dairy-processing

equipment, and food-processing equipment and utensils under 40 CFR 180.940(a). For ease of reading, all three chemicals are referred to collectively as paraffin waxes in the following sections. There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. When making a safety determination for an exemption for the requirement of a tolerance FFDCA section 408(c)(2)(B) directs EPA to consider the considerations in section 408(b)(2)(C) and (D). Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Section 408(b)(2)(D) lists other factors for EPA consideration making safety determinations, *e.g.,* the validity, completeness, and reliability of available data, nature of toxic effects, available information concerning the cumulative effects of the pesticide chemical and other substances with a common mechanism of toxicity, and available information concerning aggregate exposure levels to the pesticide chemical and other related substances, among others.

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no harm to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for paraffin waxes including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with paraffin waxes follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by paraffin waxes as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

Paraffin waxes exhibit low levels of acute toxicity via the oral, and dermal routes of exposure and they are anticipated to have low acute toxicity via the inhalation route. Paraffin waxes are non-irritating to the eye or skin, and they are not dermal sensitizers.

The repeated-dose toxicity for paraffin waxes is low. No adverse effects were observed in a 90-day oral rat study or in a developmental toxicity study in rats up to the limit dose. No acceptable oral chronic or carcinogenicity studies are available for paraffin waxes. However, there is low concern for genotoxicity or mutagenicity based on negative results in mammalian and bacterial genotoxicity tests. No evidence of neurotoxicity was observed in the neurotoxicity screening performed in the 90-day oral rat study and no evidence of immunotoxicity was seen in the available studies.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/overview-risk-assessment-pesticide-program.*

The hazard profile of paraffin waxes is adequately defined. Overall, paraffin waxes are of low acute, subchronic, and developmental/reproductive toxicity. No systemic toxicity is observed up to 1,000 mg/kg/day. Since signs of toxicity were not observed, no toxicological endpoints of concern or PODs were identified. Therefore, a qualitative risk

assessment for paraffin waxes can be performed.

C. Exposure Assessment

1. *Dietary exposure.* In evaluating dietary exposure to paraffin waxes, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from paraffin waxes in food and drinking water as follows:

Dietary exposure (food and drinking water) to paraffin waxes may occur from foods containing these inert ingredients and from non-pesticidal uses (*e.g.,* cosmetics and personal care). However, no toxicological endpoints of concern were selected, and therefore, a quantitative dietary exposure assessment for paraffin waxes was not conducted.

2. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Although the current and proposed uses of paraffin waxes can result in residential exposures, no toxicological endpoints were selected, and therefore, it is not necessary to conduct a quantitative assessment of residential exposures and risks.

3. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Based on the lack of toxicity in the available database, EPA has not found paraffin waxes to share a common mechanism of toxicity with any other substances, and paraffin waxes do not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance exemption, therefore, EPA has assumed that the paraffin waxes in this petition do not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

Based on an assessment of paraffin waxes, EPA has concluded that there are no toxicological endpoints of concern for the U.S. population, including infants and children. Because there are no threshold effects associated with paraffin waxes, EPA conducted a qualitative assessment. As part of that assessment, the Agency did not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children.

E. Aggregate Risks and Determination of Safety

Because no toxicological endpoints of concern were identified, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to paraffin wax residues.

V. Other Considerations

Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established for residues of paraffin waxes, paraffin waxes and hydrocarbon waxes (CAS Reg. No. 8002–74–2); carboxypolymethylene resin (CAS Reg. No. 68153–22–0); and paraffin waxes and hydrocarbon, oxidized, lithium salts (CAS Reg. No. 68649–48–9) when used as inert ingredients (flow aid, surface protectant, binder, carrier, coating agent or adjuvant) in pesticide formulations applied to growing crops and raw agricultural commodities pre- and post-harvest under 40 CFR 180.910, applied in/on animals under 40 CFR 180.930, and in antimicrobial formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils under 40 CFR 180.940(a).

VII. Statutory and Executive Order Reviews

This action establishes exemptions from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemptions in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132,

entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA 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 prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 9, 2023.

Daniel Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.910, amend table 1 to 180.910 by adding, in alphabetical order, an entry for ''Paraffin waxes and hydrocarbon waxes (CAS Reg. No. 8002–74–2); carboxypolymethylene resin (CAS Reg. No. 68153–22–0); and paraffin waxes and hydrocarbon, oxidized, lithium salts (CAS Reg. No. 68649–48–9)'' to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1 TO 180.910

Inert ingredients	Limits	Uses
* * * * *	*	*
Paraffin waxes and hydrocarbon waxes (CAS Reg. No. 8002–74–2); carboxypolymethylene resin (CAS Reg. No. 68153–22–0); and paraffin waxes and hydrocarbon, oxidized, lithium salts (CAS Reg. No. 68649–48–9).	.....	Flow aid, surface protectant, binder, carrier, coating agent or adjuvant.
* * * * *	*	*

■ 3. In § 180.930, amend table 1 to 180.930 by adding, in alphabetical order, an entry for ''Paraffin waxes and hydrocarbon waxes; carboxypolymethylene resin; and paraffin waxes and hydrocarbon, oxidized, lithium salts'' to read as follows:

§ 180.930 Inert ingredients applied to animals; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1 TO 180.930

Inert ingredients	CAS Reg. No.	Limits
* * * * *	*	*
Paraffin waxes and hydrocarbon waxes; carboxypolymethylene resin; and paraffin waxes and hydrocarbon, oxidized, lithium salts.	8002–74–2; 68153–22–0; 68649–48–9.	
* * * * *	*	*

■ 4. In § 180.940, amend table 1 to paragraph (a) by adding, in alphabetical order, an entry for ''Paraffin waxes and hydrocarbon waxes; carboxypolymethylene resin; and paraffin waxes and hydrocarbon, oxidized, lithium salts'' to read as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions)

* * * * *

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Inert ingredients	CAS Reg. No.	Limits
* * * * * * *		
Paraffin waxes and hydrocarbon waxes; carboxypolymethylene resin; and paraffin waxes and hydrocarbon, oxidized, lithium salts.	8002–74–2; 68153–22–0; 68649–48–9.	
* * * * * * *		

* * * * *

[FR Doc. 2023–05314 Filed 3–16–23; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 88, No. 52
Friday, March 17, 2023

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

DEPARTMENT OF STATE

22 CFR Part 42

[Public Notice: 11604]

RIN 1400–AE83

Visas: Immigrant Visas

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State (''Department'') proposes to amend its regulation governing immigrant visas by removing the section which allows a consular officer to conduct an informal evaluation of the family members of an immigrant visa applicant to identify potential grounds of ineligibility. The existing regulation was promulgated in 1952, at a time when a consular officer could more readily assess a family member's qualification for a visa. Assessing eligibility for an immigrant visa is now a complex task, and not one which can be accomplished accurately with an informal evaluation.

DATES: Written comments must be received on or before May 16, 2023.

ADDRESSES: Interested parties may submit comments to the Department by any of the following methods:

- *Internet (preferred):* At *www.regulations.gov,* you can search for the document using Docket Number DOS–2022–0046 or RIN 1400–AE83.
- *Email:* Claire Kelly, Office of Visa Services, Bureau of Consular Affairs, U.S. Department of State, *VisaRegs@state.gov.*

Public Participation

All interested parties are invited to participate in this rulemaking by submitting written views and comments on all aspects of this proposed rule. Comments must be submitted in English or an English translation must be provided. Comments that will provide the most assistance to the Department of State in implementing this change will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include information that supports the recommendation.

Instructions: If you submit a comment, you must include the agency name and RIN 1400–AE83 for this proposed rulemaking in the title or body of the comment. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, because all submissions will be public, you may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission. The Department of State may withhold from public viewing information provided in comments that it determines may infringe privacy rights of an individual or is offensive. For additional information, please read the Privacy Act notice available in the footer at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Claire Kelly, Office of Visa Services, Bureau of Consular Affairs, Department of State, 600 19th St. NW, Washington, DC 20006, (202) 485–7586.

SUPPLEMENTARY INFORMATION:

I. What changes to 22 CFR 42.68 does the Department propose?

The Department proposes eliminating 22 CFR 42.68 in its entirety. Under 22 CFR 42.68 consular officers may, in certain circumstances, arrange for an informal evaluation of the family members of an immigrant visa applicant. Specifically, if a principal immigrant visa applicant will precede the family members in traveling to the United States, 22 CFR 42.68 allows a consular officer to arrange for an informal examination of the family members to make a preliminary determination of any ground of ineligibility on their part to receive a visa. Under the current regulation, the principal applicant must be informed of any preliminary finding of ineligibility, and a determination in connection with an informal examination carries no assurance that the individual will be eligible for an immigrant visa in the future.

II. Why is the Department proposing this rule?

A. Increasing Complexity in Evaluating Immigrant Visa Applicants Makes Informal Evaluation an Inappropriate Use of Resources

The regulation, 22 CFR 42.68, was among the regulations promulgated by the Department in 1952 after the enactment of the Immigration and Nationality Act. Since 1952, however, the immigrant visa process generally and the scope of grounds on which an applicant may be ineligible for an immigrant visa has grown increasingly more complex, rendering the concept of an informal evaluation as outdated and impractical for a consular officer to complete with accuracy.

In 1952, a noncitizen wishing to immigrate completed Form FS–256a, and a consular officer then assessed their eligibility during an interview. This simple form requested basic biographical information and included a statement affirming that the noncitizen was not inadmissible. Since 1952, Congress has enacted numerous laws imposing new immigration ineligibilities.[1] Today, a noncitizen applying for an immigrant visa completes form DS–260, submits biometrics and supporting documents, including police certificates and the results of a medical examination, and the consular officer interviews the applicant and vets the applicant through a series of electronic national security and criminal vetting systems to identify potential grounds of ineligibility.[2] The results of these vetting measures are one of the central factors upon which a consular officer relies to determine whether the applicant is ineligible for a visa. Without a complete application for a visa with the required supporting documents, the Department lacks sufficient information for a thorough assessment of potential ineligibilities that would make an informal evaluation useful.

The informal evaluation that was created in 1952 does not provide a complete picture of an individual's

[1] See, for example, the Immigration Reform and Control Act (IRCA) (100 Stat. 3359); the 1990 Immigration Act (104 Stat. 4978); the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) (110 Stat. 3009).

[2] Consistent with the Enhanced Border Security and Visa Entry Reform Act (EBSVERA) (116 Stat. 543).

eligibility for a visa. Evolving national security priorities, particularly since September 11, 2001, have resulted in significant modifications to the visa screening enterprise. The current enterprise includes numerous concurrent interagency reviews for potential derogatory information of both principal and derivative immigrant visa applicants. Given the broad range of potential ineligibilities, and the layered vetting processes in which applicants are reviewed, a consular officer cannot at the time of the informal evaluation make an accurate assessment as to the noncitizen's eligibility for a visa and consequently cannot fully advise a principal applicant on the eligibility of their family members.

If the Department were to update the informal evaluation process to provide a more informed and thorough review of a principal applicant's family members, such that a consular officer could provide an accurate preliminary assessment of visa eligibility, such changes would require reallocation of already limited resources of both the Department and other agencies to review applicants who have not—and potentially will not—apply for a visa, potentially requiring significant changes to Department systems that facilitate vetting of applicants based only on their submission of a completed visa application. Moreover, even with a comprehensive slate of information regarding a visa applicant, an assessment of eligibility can only account for their potential eligibility at that time, and is not a reliable indicator of whether they would be eligible in the future if and when they submit a visa application. Consequently, an informal evaluation is an inefficient use of State resources, and an unreliable tool for prospective applicants.

The authority provided for in 22 CFR 42.68 has not been used in recent years. Given the difficulty in accurately predicting an applicant's visa eligibility through an informal process, the Department is unable to allocate its limited resources toward offering a service that has been rendered obsolete.

B. Current Application of 22 CFR 42.68

To determine whether and how often the informal evaluation authority has been used, the Visa Office consulted with management in the immigrant visa units of five of the largest-volume immigrant visa processing posts: Ciudad Juarez, Manila, Santo Domingo, Mumbai, and Dhaka. Each of the five posts reported they have no record of ever providing this service. Given that these five posts process 32 percent of the immigrant visas worldwide, and they have no recent information regarding this service, we are confident that eliminating this service will not cause undue hardship to applicants or result in significant impacts to applicants.

In light of the complexity required to evaluate a noncitizen's eligibility for an immigrant visa, and limited resources to reliably assess eligibility absent a visa application, the Department seeks to eliminate this regulation.

III. Regulatory Findings

Administrative Procedure Act

This proposed rule involves the Department amending visa policy, which is a foreign affairs function of the United States and, therefore, in accordance with 5 U.S.C. 553(a)(1), would be exempt from the notice and comment requirements of 5 U.S.C. 553. Notwithstanding the applicability of the foreign affairs exception to this rule, the Department is providing 60 days for public comment on this proposed rule's elimination of 22 CFR 42.68.

Regulatory Flexibility Act/Executive Order 13272 (Small Business)

As this rulemaking is not required to be published for notice and comment under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth by the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, the Department certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Pub. L. 104–4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private section. This proposed rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

Executive Orders (E.O.) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The Department reviewed this proposal to ensure consistency with those requirements. OMB reviewed this proposed rule and designated as a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, OMB has reviewed this proposed regulation.

As noted above, the Visa Office consulted with management in the immigrant visa units of five of the largest-volume immigrant visa processing posts: Ciudad Juarez, Manila, Santo Domingo, Mumbai, and Dhaka. Each of the five posts reported they do not provide this service. Given that these five posts process 32 percent of the immigrant visas worldwide, and they have no information regarding the provision of this service, we are confident that eliminating this regulation will not result in significant impacts.

The Department has also considered this proposed rule in light of Executive Order 13563 and affirms that this proposed rule is consistent with the guidance therein.

Executive Orders 12372 and 13132 (Federalism)

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the proposed rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

Executive Order 12988 (Civil Justice Reform)

The Department has reviewed the proposed rule in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

The Department has determined that this proposed rule will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not pre-empt Tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this proposal.

Paperwork Reduction Act

This proposed rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 42

Immigration, Passports and visas.

For the reasons stated in the preamble, the Department proposes to amend 22 CFR part 42 as follows:

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

■ 1. The authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104 and 1182; Pub. L. 105–277, 112 Stat. 2681; Pub. L. 108–449, 118 Stat. 3469; The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); 42 U.S.C. 14901–14954 (Pub. L. 106–279, 114 Stat. 825); 8 U.S.C. 1101 (Pub. L. 111–287, 124 Stat. 3058); 8 U.S.C. 1154 (Pub. L. 109–162, 119 Stat. 2960); 8 U.S.C. 1201 (Pub. L. 114–70, 129 Stat. 561).

§ 42.68 [Removed and reserved]

■ 2. Remove and reserve § 42.68.

Julie Stufft,

Deputy Assistant Secretary for Visa Services, Consular Affairs, Department of State.

[FR Doc. 2023–05410 Filed 3–16–23; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 226

[Docket No. BIA–2022–0006; 2231A2100DD/AAKC001030/A0A501010.999900; OMB Control Number 1076–0180, 1012–0004, 1012–0006]

RIN 1076–AF59

Mining of the Osage Mineral Estate for Oil and Gas

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The Bureau of Indian Affairs (BIA) is extending the public comment period for the proposed rule revising the regulations governing leasing of the Osage Nation's mineral estate (''Osage Mineral Estate'') for oil and gas mining. Extending the public comment period will allow more time for the public to review the proposal and submit comments.

DATES: *Proposed Regulations:* The comment period for the proposed rule published on January 13, 2023 (88 FR 2430), is extended. Comments must be received by 11:59 p.m. EST on April 7, 2023.

ADDRESSES: *Proposed Regulations:* You may submit your comments on the proposed rule by any of the methods listed below.

- *Federal Rulemaking Portal: https://www.regulations.gov.* Enter ''RIN 1076–AF59'' in the search box and click ''Search.'' Follow the instructions for sending comments.
- *Mail:* U.S. Department of the Interior, Eastern Oklahoma Region, Bureau of Indian Affairs, Attn: Regional Director, P.O. Box 8002, Muskogee, OK 74402. All submissions must include the words ''Bureau of Indian Affairs'' or ''BIA'' and ''RIN 1076–AF59.''
- *Hand Delivery/Courier:* U.S. Department of the Interior, Eastern Oklahoma Region, Bureau of Indian Affairs, Attn: Regional Director, 3100 W Peak Boulevard, Muskogee, OK 74402.

FOR FURTHER INFORMATION CONTACT: Oliver Whaley, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs, (202) 738–6065, *comments@bia.gov.*

SUPPLEMENTARY INFORMATION: On January 13, 2023, the BIA published a proposed rule in the **Federal Register** (88 FR 2430) proposing to revise 25 CFR part 226, Leasing of Osage Reservation Lands for Oil and Gas Mining, to strengthen the BIA's management and administration of the Osage Mineral Estate. The proposed rule would allow the BIA to strengthen management of the Osage Mineral Estate by updating bonding, royalty payment and reporting, production valuation and measurement, site security, and operational requirements to address changes in technology and industry standards that have occurred in the 47 years since the regulations were issued. The proposed rule would also allow the BIA to respond to recommendations made by the Office of Inspector General, U.S. Department of the Interior (OIG). The public comment period for the proposed rule is scheduled to close on Friday, March 17, 2023. To give the public additional time to review the proposed revisions and provide comments, the BIA is extending the public comment period until Friday, April 7, 2023. Comments previously submitted on the proposed rule will be fully considered in preparing the final rule and do not need to be resubmitted.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2023–05452 Filed 3–16–23; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2023–0015]

RIN 1625–AA08

Special Local Regulation; Horsepower on the Hudson, Hudson River, Castleton-on-Hudson, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a special local regulation on certain waters of the Hudson River near Castleton-on-Hudson, NY, in support of the Horsepower on the Hudson event, reoccurring annually one day in August. This action is necessary to ensure the safety of participants, participant vessels, spectators, and mariners transiting the area from the dangers associated with vessels operating at high speeds during the Horsepower on the Hudson event. This proposed rulemaking would allow the Coast Guard to enforce vessel movements within two regulated areas in a portion of the Hudson River near Castleton-on-Hudson, NY. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 17, 2023.

ADDRESSES: You may submit comments identified by docket number USCG–2023–0015 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email MSTC S. Stevenson, Waterways Management Division, U.S. Coast Guard; telephone 718–354–4197, email *D01-SMB-SecNY-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port New York
DHS Department of Homeland Security
FR Federal Register
LLNR Light List Number
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The Coast Guard established the first temporary Special Local Regulation titled ''Special Local Regulation; 2022 Horsepower on the Hudson, Hudson River, Castleton, NY,'' that was published in the **Federal Register** (87 FR 30800) on May 20, 2022. On December 19, 2022, the Coast Guard received an application for a Marine Event from the Castleton Boat Club for the Horsepower on the Hudson, which is expected to be an annually reoccurring event. The event will take place on the Hudson River near Castleton-on-the-Hudson, one day in August every year. The Captain of the Port New York (COTP) has determined that this event being held near marine traffic poses a significant risk to public safety and property and that establishing a permanent Special Local Regulation will more appropriately ensure adequate protections in place during the event. The event will consist of approximately 40 participating vessels that will transit by the Castleton Boat Club at speeds exceeding 100 mph. The participating vessels are expected to maneuver at high speeds along the eastern shore of the Hudson River along Hudson River Lighted Buoy 202 (LLNR 38905) to Hudson River Lighted Buoy 204 (LLNR 38910) outside of the navigable channel. The event is also expected to have approximately 20 spectator crafts on the opposite side of the river from Hudson River Lighted Buoy 201 (LLNR 38903) to Hudson River Lighted Buoy 205 (LLNR 38915) outside of the navigable channel.

The combination of the vessels operating at high speeds during the event and an anticipated number of spectator crafts has the potential to result in serious injuries or fatalities. To protect the safety of all waterway users including event participants and spectators, this proposed rule would establish two regulated areas outside of the navigational channel that is not expected to impede routine vessel traffic within the navigational channel on the Hudson River. This proposed rulemaking aims to ensure the safety of participants, non-participants, and transiting vessels on the navigable waters in the vicinity of the high-speed race route and the spectator zone before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under the authority of 46 U.S.C. 70041.

III. Discussion of Proposed Rule

The Coast Guard is proposing to establish a special local regulation on the Hudson River in the vicinity of Castleton-on-the-Hudson, NY, encompassing all navigable waters of the Hudson River east of the navigable channel from the Hudson River Lighted Buoy 202 (LLNR 38905) to Hudson River Lighted Buoy 204 (LLNR 38910) outside of the channel, and all waters of the Hudson River westward of the navigational channel from Hudson River Lighted Buoy 201 (LLNR 38903) to Hudson River Lighted Buoy 205 (LLNR 38915) outside of the channel. The event will take place annually one day in August. The high-speed demonstration will consist of approximately 40 vessels that will transit by the Castleton Boat Club at speeds exceeding 100 mph. The special local regulation will include two regulated areas that will be located outside of the navigational channel: a *high-speed area* and a *spectator area.* The *high-speed area* would encompass all navigable waters of the Hudson River east of the navigational channel from Hudson River Lighted Buoy 202 (LLNR 38905) to Hudson River Lighted Buoy 204 (LLNR 38910) where all persons and vessels, except those persons and vessels participating in the high-speed boat demonstration event, would be prohibited from entering, transiting through, or remaining within. Additionally, no participant may transit at high speed inside this zone when vessels are transiting through the navigational channel. The *spectator area* would encompass all navigable waters of the Hudson River from Hudson River Lighted Buoy 201 (LLNR 38903) to Hudson River Lighted Buoy 205 (LLNR 38915) west of the navigable channel.

The duration of enforcement restrictions to the waterway in the areas is intended to ensure the safety of vessels, participants, spectators, and those transiting the area during the Horsepower on the Hudson event. Navigation rules would apply at all times within the areas. The Coast Guard would provide notice of the special local regulation's exact date and time by Local Notice to Mariners. 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. A summary of our analyses based on these statutes and Executive Orders follows.

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 proposed rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this proposed rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the special local regulation. With this special local regulation, the Coast Guard intends to allow marine traffic to transit via the main navigable channel. In addition, although this rule restricts access to the waters encompassed by the local regulation, the effect of this rule will not be significant because the local waterway users will be notified in advance via public Broadcast Notice to Mariners to ensure the special local regulation will result in minimum impact as the main navigation channel will be maintained allowing vessels to transit Hudson River outside of the high speed area or the spectator area. Mariners will therefore be able to plan and either transit through the available transit area or outside the periods of enforcement of the special local regulation. Additionally, mariners may be able to transit the high-speed area or spectator areas with approval from the COTP or designated representative. The entities most likely affected are commercial vessels and pleasure craft engaged in recreational activities.

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 regulated area 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. While the special local regulation is in effect, vessel traffic can pass safely using the main ship channel of the Hudson River. The maritime public will be advised in advance of this special local regulation

via Local Notice to Mariners and Broadcast Notices to Mariners.

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 rule 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 call for no 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 regulated area lasting five hours that would limit persons or vessels from transiting certain regulated areas during the scheduled event. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2023–0015 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. 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 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.111 to read as follows:

§ 100.111 Special Local Regulation; Horsepower on the Hudson, Hudson River, Castleton-on-Hudson, NY.

(a) *Regulated areas.* The regulations in this section apply to the following regulated areas:

(1) *High speed area.* All navigable waters of the Hudson River from Hudson River Lighted Buoy 202 (LLNR 38905) to Hudson River Lighted Buoy 204 (LLNR 38910) east of the navigable channel shoreward outside of the navigational channel.

(2) *Spectator area.* All navigable waters of the Hudson River from Hudson River Lighted Buoy 201 (LLNR 38903) to Hudson River Lighted Buoy 205 (LLNR 38915) west of the navigable channel shoreward outside of the navigational channel.

(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 New York (COTP) in the enforcement of the Special Local Regulation.

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

Spectator means any person or vessel including human-powered craft, which is not designated by the sponsor as a support vessel, in the vicinity of the event with the primary purpose of witnessing the event. Spectator vessels can observe the marine event from the designated spectator area.

(c) *Regulations.* (1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas described in paragraph (a) of this section unless authorized by the COTP or their designated representative.

(2) No participant may transit at high-speed inside the high-speed zone when vessels are in or transiting through the navigational channel.

(3) To seek permission to enter, contact the COTP or the designated representative via VHF–FM Marine Channel 16 or by contacting the Coast Guard Sector New York command center at (718) 354–4356 or on VHF 16 to obtain permission. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(d) *Effective period.* This special local regulation is in effect annually on a date and time published in the Local Notice to Mariners.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public through Local Notice to Mariners and Broadcast Notices to Mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Dated: March 8, 2023.

Z. Merchant,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2023–05332 Filed 3–16–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 751

[EPA–HQ–OPPT–2021–0057; FRL–8332–04–OCSPP]

RIN 2070–AK86

Asbestos Part 1: Chrysotile Asbestos; Regulation of Certain Conditions of Use Under Section 6(a) of the Toxic Substances Control Act (TSCA); Notice of Data Availability and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule, notice of data availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of and soliciting public comment on additional data received by EPA related to the proposed rule for Part 1: Chrysotile Asbestos; Regulations of Certain Conditions of Use under TSCA. These additional data pertain to chrysotile asbestos diaphragms used in the chlor-alkali industry and chrysotile asbestos-containing sheet gaskets used in chemical production and may be used by EPA in the development of the final rule, including EPA's determination of what constitutes ''as soon as practicable'' with regard to the proposed chrysotile asbestos prohibition compliance dates for these uses.

DATES: Comments must be received on or before April 17, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0057, using 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 or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Peter Gimlin, Existing Chemicals Risk Management Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0515; email address: *gimlin.peter@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of April 12, 2022 (87 FR 21706 (FRL–8332–02–OCSPP)), EPA proposed a rule under TSCA section 6(a) to address the unreasonable risk presented by chrysotile asbestos under the conditions of use evaluated in the Risk Evaluation for Asbestos, Part 1: Chrysotile Asbestos. EPA proposed to prohibit manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos for chrysotile asbestos diaphragms for use in the chlor-alkali industry and chrysotile asbestos-containing sheet gaskets used in chemical production, effective two years after the effective date of the final rule, which is 60 days after publication of the final rule. EPA also proposed to prohibit the manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos-containing brake blocks used in the oil industry, aftermarket automotive chrysotile asbestos-containing brakes/linings, other chrysotile asbestos-containing vehicle friction products, and other chrysotile asbestos-containing gaskets, effective 180 days after the effective date of the final rule. EPA also proposed to prohibit manufacture (including import), processing, and distribution in commerce of aftermarket automotive chrysotile asbestos-containing brakes/linings for consumer use, and other chrysotile asbestos-containing gaskets for consumer use, effective 180 days after the effective date of the final rule. Additionally, EPA proposed disposal and related recordkeeping requirements. In accordance with TSCA section 6(c)(2)(A), EPA also discussed in the preamble to the proposed rule a primary alternative regulatory option to address

the unreasonable risk presented by chrysotile asbestos under the conditions of use evaluated in the Risk Evaluation for Asbestos, Part 1: Chrysotile Asbestos. This primary alternative regulatory option included, among other requirements, a prohibition on the manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos diaphragms in the chlor-alkali industry and chrysotile asbestos-containing sheet gaskets in chemical production effective 5 years after the effective date of the final rule and a requirement to comply with an Existing Chemicals Exposure Limit (ECEL) and related monitoring and recordkeeping requirements prior to the prohibition taking effect.

After being extended 30 days (87 FR 31814, May 25, 2022 (FRL–8332–03–OCSPP)), the comment period for the proposed rule closed on July 13, 2022. EPA received about 155 discrete comments as of the end of the extended public comment period. In the proposed rule, EPA requested public comment on several aspects of the proposed rule including the proposed prohibition compliance dates for the manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos.

Specific to chrysotile asbestos diaphragms used in the chlor-alkali industry, EPA sought public comment ''to support or refute its assumption that [chlor-alkali] plants using asbestos diaphragms will convert to non-asbestos technologies, and the timeframes required for such conversions.'' 87 FR 21721. EPA sought comment on a prohibition compliance date that under TSCA sections 6(d)(1) would be both ''as soon as practicable'' and ''provide for a reasonable transition period,'' including information on the specific and detailed timelines to build asbestos-free facilities or to convert existing asbestos-using facilities to asbestos-free technology and the availability of asbestos-free technology. 87 FR 21726. EPA also requested information on ''potential barriers to achieving the proposed prohibition date while considering the supply of chlor-alkali chemicals and on the potential impact of this transition on the market price of chlor-alkali chemicals.'' *Id.*

EPA received significant comment on these issues during the public comment period for the proposed rule. EPA received comments supporting the proposed two-year prohibition timeline, such as from the Asbestos Disease Awareness Organization (ADAO). ADAO stated: ''EPA's proposal correctly calls for the chlor-alkali industry to stop importing and using asbestos two years after the final rule becomes effective. . . . this phase-out deadline . . . can be accomplished without disrupting the U.S. supply of chlorine and caustic soda . . . [industry's] recent voluntary closure of substantial asbestos-diaphragm capacity demonstrates that the remaining plants can be shut down quickly and without hardship to industry or consumers.'' (EPA–HQ–OPPT–2021–0057–0397). However, many commenters argued the two-year timeline would not provide the chlor-alkali industry a reasonable transition period and requested EPA provide additional time to allow the chlor-alkali industry to transition away from asbestos-containing diaphragms, to allow for this transition to occur without causing economic disruptions, and public health impacts resulting from potential disruption of drinking water disinfection supplies due to fluctuations in the production of chlorine. Some commenters also expressed concerns about the proposed alternative five-year timeline for similar reasons. Commenters provided EPA with information on the conversion process to non-asbestos technologies and the timing involved, including examples from plants in the United States and elsewhere in the world. Commenters noted that Canada provided 11 years for the conversion of one plant, and in the European Union, Germany allowed 14 years for the conversion of one plant. Comments indicated that a single plant could be converted within 45 to 55 months, including project design and engineering, permitting, construction and startup (EPA–HQ–OPPT–2021–0057–0405c). However, commenters expressed concerns, including: ''recent supply chain disruptions cast doubt on whether that aggressive five-year timeline can be met for a single . . . facility conversion; it would be clearly infeasible for multiple plant conversions. . . . Globally, there are only four electrolyzer manufacturers. Based on raw metal supply disruptions, electrolyzer market demand and production capacity, manufacturers have indicated they may only support a large-scale conversion every 3–4 years. . . . The logistical and cost-intensive process of converting several facilities simultaneously compound the infeasibility of EPA's proposed timeframe.'' (EPA–HQ–OPPT–2021–0057–0405) That commenter (and others) noted the time required to obtain an air permit: ''. . . preparing, applying for, and obtaining an [state] air permit, which is generally required to commence construction, . . . can easily take eighteen months or even the entire twenty-four-month period.'' The commenter also noted ''. . . sequential conversion to membrane is needed to maintain an ongoing supply of the chlor-alkali chemicals. Even if it were possible to construct the plants concurrently, shutting down that amount of capacity at the same time would have dramatic impact on supply across many industries and public services . . .'' (EPA–HQ–OPPT–2021–0057–0405). Many commenters raised concerns about the impact the 2-year prohibition on the nation's supply of chlorine and caustic soda, which are essential chemicals for many industries. Many commenters asserted that a sudden shortage of chlorine could severely impact the ability of municipal water treatment facilities to disinfect public drinking water and therefore present a public health concern.

After the close of the public comment period for the proposed rule, EPA received comments and held meetings with stakeholders, including affected industry and interested groups, related to the use of chrysotile asbestos diaphragms in the chlor-alkali industry and chrysotile asbestos-containing sheet gaskets used in chemical production. Topics of these comments and meetings included media reports regarding asbestos workplace practices in the chlor-alkali industry, the timing of any prohibition on the manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos diaphragms and chrysotile asbestos-containing sheet gaskets, and the requirement, included in the primary regulatory alternative described in the preamble to the proposed rule, for processors and users of chrysotile asbestos diaphragms and chrysotile asbestos-containing sheet gaskets to comply with an ECEL as an interim control measure prior to the effective date of a prohibition. Meetings were held with: ADAO (July 6 & October 13, 2022); Chlorine Institute (July 6, 2022); Dow Chemicals (October 28, 2022); Axial/Westlake (November 3, 2022); Olin Corp. (November 14, 2022); OxyChem (November 16, December 7, 2022 & February 9, 2023), and Chemours (January 18, 2023). EPA received data as part of and following those stakeholder meetings and is now making those public data and stakeholder meeting summaries available to the public in the rulemaking docket (EPA–HQ–OPPT–2021–0057). Some industry information made available to EPA has been claimed as

confidential information under TSCA section 14 and is not available in the public docket. The additional information provided in the docket includes a supplemental letter from ADAO that provided additional information and recommendations to EPA on chlor-alkali diaphragm use (EPA–HQ–OPPT–2021–0057–0412). The ADAO letter notes a report on workplace practices, which provides documentation on the exposure of workers at chlor-alkali facilities to chrysotile asbestos. The letter also provides information to show that the chlor-alkali industry ''has shut down a substantial portion of its asbestos diaphragm production capacity in the last three years and is in the process of transitioning to non-asbestos membrane technology,'' and information on industry conversion to membrane technology, specifically the conversion of the OxyChem facility in LaPorte/Battleground, Texas (EPA–HQ–OPPT–2021–0057–0412). Finally, in the letter, ADAO recommends EPA seek answers from industry to seven specific questions regarding chlor-alkali production statistics; reduction of asbestos-diaphragm capacity, supply of chlor-alkali chemicals to water treatment facilities; specific conversion plans for asbestos-diaphragm facilities; financial and economic analyses, import volumes, and amounts of stockpiled asbestos (EPA–HQ–OPPT–2021–0057–0412).

In addition, other information made available to EPA after the close of the public comment period has been posted to the docket, including several public comments submitted to EPA regarding the potential impacts of the proposed rule's compliance date for the prohibition on the commercial use of chrysotile asbestos diaphragms in the chlor-alkali industry on the supply of chlorine used for drinking water disinfection.

EPA received comments pertaining to the timing of the prohibition on the manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos diaphragms requesting the consideration of the current transition schedules for chlor-alkali facilities from chrysotile asbestos diaphragms to non-asbestos alternative technology. For example, comments suggest it may be practicable to prohibit the manufacture (including import) of chrysotile asbestos before prohibiting processing, distribution in commerce and commercial use of chrysotile asbestos, as all chlor-alkali companies that currently use chrysotile asbestos already have or will have a sufficient supply of chrysotile asbestos for foreseeable future operations prior to the prohibition compliance dates. Regarding the timing of the prohibition on processing, distribution in commerce and commercial use, some commenters believe it may be practicable for the compliance dates to vary for different affected persons, as comments have informed EPA that individual chlor-alkali companies may have different considerations for the timing of any transition away from chrysotile asbestos diaphragm technology, based on whether they intend to close or convert facilities, the number and size of facilities they have, and inherent technical differences in specific plant conversions. Comments received described the different approaches to move away from chrysotile asbestos use given the different designs of chrysotile asbestos diaphragm technology, the type of intended conversion to a non-asbestos diaphragm technology or membrane technology, the limited availability of suppliers and technical expertise during the conversion process, as well as differences regarding permits needed for the conversion of facilities and permitting timelines based on their location. Comments indicate that an approach that can accommodate differences among facilities may provide a reasonable transition period for each remaining chlor-alkali facility still using chrysotile asbestos diaphragms, while ensuring the associated unreasonable risk is addressed as soon as practicable. Another commenter, however, believes that since industry is already transitioning to non-asbestos chlor-alkali technology an expeditious ban of the use of chrysotile asbestos in chlor-alkali production will not only protect public health but achieve important economic and environmental benefits.

Comments EPA received regarding the timing of the prohibition on the manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos-containing sheet gaskets in chemical production, state that the prohibition compliance date should be delayed for titanium dioxide production facilities to allow a transition from chrysotile asbestos containing sheet gaskets to non-asbestos sheet gaskets, as titanium dioxide producers have different technical considerations from other chemical producers for the transition away from the chrysotile asbestos-containing sheet gaskets.

Comments from stakeholders also included discussion of workplace monitoring strategies to comply with an asbestos ECEL during the interim period prior to a prohibition on the commercial use of chrysotile asbestos diaphragms. For example, AIHA stated that ''the proposed exposure limits of 0.005 f/cc and 0.0025 f/cc cannot be measured for an 8-hour work shift by existing sampling and analytical protocols for asbestos . . . due to the volume of air that would need to be collected to achieve the detection limit necessary . . .'' (EPA–HQ–OPPT–2021–0057–0288). OxyChem has suggested that calculation of compliance with an ECEL could take into account the assigned protection factor (APF) used for individual tasks when such respirator use is required by a facility's exposure control plan.

II. Request for Public Comments

EPA requests public comment on any data in the docket that was received during and after the proposed rule public comment period, and how EPA should consider it during the development of the final rule. In particular, EPA is seeking comments on how to consider the additional information received regarding maintaining the prohibition compliance dates, staggering the prohibition compliance dates or establishing longer deadlines for the prohibition on processing, distribution in commerce and commercial use of chrysotile asbestos for chrysotile asbestos diaphragms for use in the chlor-alkali industry and chrysotile asbestos-containing sheet gaskets used in chemical production. EPA is also seeking comments on the new information provided regarding the practicability of measuring 0.005 f/cc and 0.0025 f/cc for an 8-hour work shift by existing sampling and analytical protocols and how EPA could put in place effective interim exposure reduction requirements in a way that they are compatible with OSHA requirements and industrial hygiene practices, where those requirements and practices will address unreasonable risk until prohibitions are fully implemented. EPA also seeks comments on the workplace safety concerns in the chlor-alkali industry raised by ADAO in its comments.

List of Subjects in 40 CFR Part 751

Environmental protection, Chemicals, Export certification, Hazardous substances, Import certification, Recordkeeping.

Dated: March 10, 2023.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2023–05325 Filed 3–16–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 160 and 162

[CMS–0053–CN]

RIN 0938–AT38

Administrative Simplification: Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard; Correction

AGENCY: Office of the Secretary, Department of Health and Human Services (HHS).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects technical and typographical errors that appeared in the proposed rule published in the **Federal Register** on December 21, 2022, entitled ''Administrative Simplification: Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard.''

DATES: The comments due date remains March 21, 2023.

FOR FURTHER INFORMATION CONTACT: Geanelle G. Herring, (410) 786–4466 and Christopher Wilson, (410) 786–3178.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2022–27437 of December 21, 2022 (87 FR 78438), there were several technical and typographical errors in the regulations text that are identified and corrected in this correcting document.

II. Summary of Errors

On page 78453, in the section of the proposed rule that describes the documents that would be incorporated by reference, we inadvertently omitted language regarding the HL7 Implementation Guide for CDA Release 2: Digital Signatures and Delegation of Rights, Release 1 that we proposed to adopt as the electronic signature standard. Including this implementation guide in the list of documents to be incorporated by reference would align the section with discussion on page 78451, which specifies that the aforementioned implementation guide would be incorporated by reference. This correction does not introduce a new document for incorporation by reference, but, rather, ensures that the proposed incorporation by reference section of the proposed rule identifies all the documents proposed for incorporation by reference. We correct this error in section III. of this document (see item 1).

On page 78468, we note the following:

- In the regulations text for § 162.2002, we inadvertently omitted paragraph (f) that identifies the electronic signature standard we proposed to adopt. We also inadvertently omitted § 162.920(e)(4), which would specify the incorporation by reference of the implementation guide that would be adopted for the proposed electronic signature standard specified in § 162.2002(f). Adding these references would conform the regulations text to the policies proposed on pages 78449 and 78450 where we describe how the term ''electronic signature'' would be defined, identify the specific electronic signature standard we would adopt, and specify that we would adopt the electronic signature standard at § 162.2002(f). These corrections do not introduce new policy proposals in this document, but, rather, conform the regulations text to the policies that were clearly proposed and intended to be reflected in the regulations text. We correct these errors in section III. of this document (see items 2.a. and 1.b.(2)).
- In the regulations text for § 162.2002(e)(2), we made an inadvertent typographical error by referencing the wrong citation. We mistakenly referenced 45 CFR 1302(e)(2) rather than 45 CFR 162.1302(e)(2). We correct this error in section III. of this document (see item 2.b.(1).).

III. Correction of Errors

In FR Doc. 2022–27437 of December 21, 2022 (87 FR 78438), make the following corrections:

■ 1. On page 78453

■ a. Second column, first full paragraph:

(1) Lines 11 and 12, the phrase ''Errata; and (3) HL7 Implementation'' is corrected to read ''Errata; (3) HL7 Implementation''.

(2) Last line, the phrase ''with Errata.'' is corrected to read ''with Errata; and (4) HL7 Implementation Guide for CDA Release 2: Digital Signatures and Delegation of Rights, Release 1.''

■ b. Third column, after the first partial paragraph, the text is corrected by adding a paragraph to read as follows:

''The HL7 Implementation Guide for CDA Release 2: Digital Signatures and Delegation of Rights, Release 1 provides a standardized method of applying Digital Signatures to CDA documents. The standard provides for multiple signers, signers' declaration of their role, declaration of the purpose of the signature, long-term validation of the Digital Signatures, and data validation of the signed content.''.

■ 2. On page 78468, in the second column, correct § 162.920 by adding paragraph (e)(4) to read as follows:

§ 162.920 [Corrected]

* * * * *

(e) * * *

(4) HL7 Implementation Guide for CDA Release 2: Digital Signatures and Delegation of Rights, Release 1 October 2014; IBR approved for § 162.2002(f).

■ 3. On page 78468, in the third column, correct § 162.2002 by:

■ a. In paragraph (e)(2), correcting the reference ''45 CFR 1302(e)(2)'' to read ''45 CFR 162.1302(e)(2)'' and

■ b. Adding paragraph (f).

The addition reads as follows:

§ 162.2002 [Corrected]

* * * * *

(f) For transmissions described in § 162.2001(a), where a health care provider uses an electronic signature, the HL7 Implementation Guide for CDA Release 2: Digital Signatures and Delegation of Rights, Release 1 (incorporated by reference, see § 162.920).

Elizabeth J. Gramling,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2023–05489 Filed 3–15–23; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–502; Report No. 3193; FRS ID 130512]

Petition for Reconsideration of Action in Rulemaking Proceeding; Correction

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration; correction.

SUMMARY: The Federal Communications Commission (Commission) published a document in the **Federal Register** of March 3, 2023, regarding a Petition for Reconsideration (Petition) filed in the Commission's rulemaking proceeding. The document contained the incorrect deadline for filing replies to an opposition to the Petition. This document corrects the deadline for replies to an opposition to the Petition.

DATES: Oppositions to the Petition must be filed on or before March 20, 2023.

Replies to an opposition must be filed on or before March 30, 2023.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

Correction

In the **Federal Register** of March 3, 2023, in FR Doc. 128103, on page 13398, in the third column, and on page 13399, in the first column, correct the **DATES** section to read:

DATES: Oppositions to the Petition must be filed on or before March 20, 2023.

Replies to an opposition must be filed on or before March 30, 2023.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–05403 Filed 3–16–23; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 88, No. 52
Friday, March 17, 2023

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

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID: FSA–2023–0006]

Information Collection Requests; Direct Loan Servicing—Regular; and Servicing Minor Program Loans

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) requirement, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on a revision of two currently approved information collection requests, Direct Loan Servicing—Regular and Servicing Minor Program Loans, respectively. In the Direct Loan Servicing—Regular, the information is used to determine borrower compliance with loan agreements, assist the borrower in achieving business goals, and regular servicing of the loan account such as graduation, subordination, partial release, use of proceeds, and consent. In Servicing Minor Program Loans, the information collected is used to perform routine and special servicing actions for loans authorized and serviced under FSA's Minor Loan Program.

DATES: We will consider comments that we receive by May 16, 2023.

ADDRESSES: We invite you to submit comments in response to this notice. FSA prefers that the comments are submitted electronically through the Federal eRulemaking Portal, identified by Docket ID No. FSA–2023–0006, go to *http://www.regulations.gov* and search for docket ID FSA–2023–0006. Follow the online instructions for submitting comments.

All comments received will be posted without change and made publicly available on *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Lee Nault; by telephone: (202) 720–6834; or by email: *lee.nault@usda.gov.* Individuals who require alternative means for communication should contact the USDA TARGET Center at (202) 720–2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION:

Description of 2 Information Collection Requests

Title: Servicing Minor Program Loans.

OMB Control Number: 0560–0230.

Expiration Date: December 31, 2025.

Type of Request: Revision.

Abstract: Section 331(b) of the Consolidated Farm and Rural Development Act (CONACT, 7 U.S.C. 1981(b)), in part, authorizes the Secretary of Agriculture to modify, subordinate and release terms of security instruments, leases, contracts, and agreements entered by FSA. The section also authorizes transfers of security property, as the Secretary deems necessary, to carry out the purpose of the loan or protect the Government's financial interest. Section 335 of the CONACT (7 U.S.C. 1985) provides servicing authority for real estate security, operation or lease of realty, disposition of property, conveyance of real property interest of the United States, easements, and condemnations.

The information collection relates to a program benefit recipient or loan borrower requesting action on security they own, which was purchased with FSA loan funds, improved with FSA loan funds or has otherwise been mortgaged to FSA to secure a Federal Government loan. The information collected is primarily financial data not already on file, such as borrower asset values, current financial information and public use and employment data.

To better serve borrowers' minor loan program servicing requests, FSA is retiring form FSA–2060 ''Application for Partial Release, Subordination (Real or Personal), or Consent''. FSA has created two new forms, FSA–2061 ''Application for Partial Release or Consent'' and FSA–2062 ''Application for Subordination of Security for Commercial Credit''; both new forms captured the information previously requested on the FSA–2001 and FSA–2060 that will replace the FSA–2060 and eliminating the need for FSA–2001 for regular and routine servicing requests.

FSA is requesting OMB approval on the new two forms. With the retiring of FSA–2060 and the addition of FSA–2061 and FSA–2062, the estimated burden hours have not changed. A review of previous FSA–2060 usage over the past five years revealed no usage of the form to service minor program loans. While significant usage of the new forms replacing the FSA–2060 is not anticipated, these forms are included as part of this collection package due to the need for them to complete potential minor program servicing requests. No anticipated increase or decrease in usage for loans serviced under this program is expected.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per responses hours multiplied by the estimated total annual responses.

Estimate of Annual Burden: Public reporting burden for this collection of information is estimated to average 0.63 hours per response.

Type of Respondents: Individuals, associations, partnerships, or corporations.

Estimated Number of Respondents: 58.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual of Responses: 58.

Estimated Average Time per Responses: 0.63 hours.

Estimated Total Annual Burden on Respondents: 37 hours.

Title: Farm Loan Programs—Direct Loan Servicing—Regular.

OMB Control Number: 0560–0236.

OMB Expiration Date: December 31, 2025.

Type of Request: Revision.

Abstract: FSA's Farm Loan Programs provide loans to family farmers to purchase real estate and equipment, and finance agricultural production. Direct Loan Servicing—Regular, as specified in 7 CFR part 765, provides the requirements related to regular and routine servicing actions associated with direct loans. FSA is required to actively supervise its borrowers and provide credit counseling, management advice and financial guidance. Additionally, FSA must document that

credit is not available to the borrower from commercial credit sources for borrowers to maintain eligibility for assistance. Information collections established in the regulation are necessary for FSA to monitor and account for loan security, including proceeds derived from the sale of security, and to process a borrower's request for subordination, partial release of security, or consent. Borrowers are required to provide financial information to determine graduation eligibility based on commercial lender standards provided to FSA.

To better serve borrowers' regular and routine servicing requests, FSA is retiring form FSA–2060 ''Application for Partial Release, Subordination (Real or Personal), or Consent''. The form FSA–2061 ''Application for Partial Release or Consent,'' and form FSA–2062 ''Application for Subordination of Security for Commercial Credit'' are new forms; both new forms captured the information previously requested on the FSA–2001 and FSA–2060 that will replace the FSA–2060 and eliminating the need for FSA–2001 for regular and routine servicing requests.

FSA is requesting OMB approval for the new two forms. The burden hours estimate has been increased by 177 hours while the estimated annual responses have increased by 88. The increase in burden is not attributed to additional completion time related to either new form but instead is an overall estimated increase in total future usage of the forms based on the number of borrowers who utilize the FSA–2060 to request servicing actions over the past five years.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per responses multiplied by the estimated total annual of responses.

Estimate of Annual Burden: Public reporting burden for this collection of information is estimated to average 0.309 hours per response.

Type of Respondents: Individuals, associations, partnerships, or corporations.

Estimated Number of Respondents: 94,768.

Estimated Annual Number of Responses per Respondent: 1.0462.

Estimated Total Annual of Responses: 99,147.

Estimated Average Time per Responses: 0.309 hours.

Estimated Total Annual Burden on Respondents: 30,638 hours.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden 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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or 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.

Individuals who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 (voice and text telephone (TTY) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Zach Ducheneaux,

Administrator, Farm Service Agency.

[FR Doc. 2023–05464 Filed 3–16–23; 8:45 am]

BILLING CODE 3410–EB–P

DEPARTMENT OF AGRICULTURE

Forest Service

North Wisconsin Resource Advisory Committee; Meeting

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meetings.

SUMMARY: The North Wisconsin Resource Advisory Committee (RAC) will hold two public meetings according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as to make recommendations on recreation fee proposals for sites on the Chequamegon-Nicolet National Forest, consistent with the Federal Lands Recreation Enhancement Act. General information and meeting details can be found at the following website: *https://www.fs.usda.gov/main/cnnf/workingtogether/advisorycommittees.*

DATES: The meetings will be held on:

- Wednesday, May 3, 2023, 9 a.m.–3 p.m., Central Daylight Time, and
- Wednesday, May 17, 2023, 9 a.m.–3 p.m., Central Daylight Time

All RAC meetings are subject to cancellation. For status of the meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments

Written comments may be submitted to the Forest Service up to 14 days after the meeting date(s) listed under in this

section. Comments submitted after this date will be provided to Forest Service, but the RAC may not have adequate time to consider those comments prior to the meeting.

Oral Comments

Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date(s) (to be scheduled on that particular agenda).

Written comments and requests for time for oral comments must be sent to Penny McLaughlin, 500 Hanson Lake Road, Rhinelander, WI 54501 or by email to *penny.mclaughlin@usda.gov*.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

ADDRESSES: These meetings are open to the public and will be held at the Rhinelander Supervisor's Office, 500 Hanson Lake Rd., Rhinelander, Wisconsin 54501. The public may also join virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Adam Felts, Designated Federal Officer (DFO), by phone at 715–362–1335 or email at *adam.felts@usda.gov* or Penny McLaughlin, RAC Coordinator, by email at *penny.mclaughlin@usda.gov*.

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of the meetings are to:

1. Elect a chairperson;
2. Hear from Title II project proponents and discuss Title II project proposals; and
3. Make funding recommendations on Title II projects.

The meetings are open to the public. The agendas will include time for individuals to make oral statements of three minutes or less.

Written comments and oral statements may be submitted as described under the **DATES** section. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* 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 USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: March 13, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–05450 Filed 3–16–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket No. RBS–22–BUSINESS–0028]

Notice of Funding Opportunity for the Value-Added Producer Grants for Fiscal Year 2023

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of funding opportunity.

SUMMARY: The Rural Business-Cooperative Service (RBCS, Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), announces acceptance of applications under the Value-Added Producer Grant (VAPG) program for Fiscal Year (FY) 2023, subject to the availability of funding. This Notice is being issued in order to allow applicants sufficient time to leverage financing, prepare and submit their applications, and give the Agency time to process applications within FY 2023. The Agency currently estimates that approximately $31 million will be available for FY 2023. Successful applications will be selected by the Agency for funding and subsequently awarded to the extent that funding may ultimately be made available through appropriations. All applicants are responsible for any expenses incurred in developing their applications.

DATES: Electronic applications e-filed through *https://www.grants.gov* must be filed by 11:59 p.m. Eastern Time (ET) on May 11, 2023.

Complete paper applications must be submitted by close of business on May 16, 2023 in the USDA RD State Office of the State where the project is located, Paper applications must be postmarked and mailed, shipped or sent overnight, hand carried or emailed by this date.

Late applications are not eligible for grant funding under this Notice.

ADDRESSES: This funding announcement will also be announced on *www.grants.gov.* Electronic applications are to be submitted through *www.grants.gov.*

To submit a paper application, send it to the USDA RD State Office located in the state where the project will primarily take place. Applicants can find USDA RD State Office contact information at *http://www.rd.usda.gov/contact-us/state-offices.* To submit an application through email, contact the respective USDA RD State Office to obtain the Agency email address where the application will be submitted.

Application materials are also available at *http://www.rd.usda.gov/programs-services/value-added-producer-grants.*

FOR FURTHER INFORMATION CONTACT: Greg York at 202–281–5259, *gregory.york@usda.gov* or Mike Daniels at 715–345–7637, *mike.daniels@usda.gov,* Program Management Division, RBCS, USDA, 1400 Independence Avenue SW, Mail Stop 3226, Room 5801–S, Washington, DC 20250–3226.

SUPPLEMENTARY INFORMATION:

Overview

Federal Awarding Agency Name: Rural Business-Cooperative Service.

Funding Opportunity Title: Value-Added Producer Grant.

Announcement Type: Notice of Funding Opportunity (NOFO).

Funding Opportunity Number: RDBCP–VAPG–2023.

Assistance Listing: 10.352.

Dates: Electronic applications filed through *https://www.grants.gov* must be

filed by 11:59 p.m. Eastern Time (ET) on May 11, 2023.

A complete paper application must be submitted by close of business on May 16, 2023 in the USDA RD State Office of the State where the project is located, or it will not be considered for funding. Paper applications must be postmarked and mailed, shipped or sent overnight, hand carried or emailed by this date.

Late applications are not eligible for grant funding under this Notice.

Rural Development Key Priorities: The Agency encourages applicants to consider projects that will advance the following key priorities (more details available at *https://www.rd.usda.gov/priority-points*):

- Assisting rural communities recover economically through more and better market opportunities and through improved infrastructure;
- Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects; and
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

A. Program Description

1. *Purpose of the Program.* The objective of this grant program is to assist viable Independent Producers, Agricultural Producer Groups, Farmer and Rancher Cooperatives, and Majority-Controlled Producer-Based Businesses in starting or expanding value-added activities related to the processing and/or marketing of Value-Added Agricultural Products. Grants will be awarded competitively for either planning or working capital projects directly related to the processing and/or marketing of value-added products. Generating new products, creating and expanding marketing opportunities, and increasing producer income are the end goals of the program. All proposals must demonstrate economic viability and sustainability to compete for funding.

2. *Statutory and Regulatory Authority:* The VAPG program is authorized under section 231 of the Agriculture Risk Protection Act of 2000 (Pub. L. 106–224), as amended by section 10102 of the Agriculture Improvement Act of 2018 (Pub. L. 115–334) (see 7 U.S.C. 1627c) and implemented by 7 CFR part 4284, subpart J.

3. *Definitions.* The definitions applicable to this Notice are published at 7 CFR 4284.902. In addition, the following definitions apply to this notice:

(a) *Majority-Controlled Producer-Based Business Venture,* incorporated from Section 10102 of the Agriculture Improvement Act of 2018, means a venture greater than 50 percent of the ownership and control of which is held by—

(1) 1 or more producers; or

(2) 1 or more entities, 100 percent of the ownership and control of which is held by 1 or more producers. The term 'entity' means—

(i) a partnership;

(ii) a limited liability corporation;

(iii) a limited liability partnership; or

(iv) a corporation.

(b) *Market Expansion Project* means a project in which the Independent Producer applicant seeks to expand the market for an existing value-added product (produced and marketed by the applicant for at least 2 years at the time of application) through sales to demonstrably new markets or to new customers in existing markets.

4. *Application of Awards.* The Agency will review, evaluate and score applications received in response to this Notice based on the provisions found in 7 CFR 4284.940, § 4284.942 and as indicated in this Notice. Awards under the VAPG program will be made on a competitive basis using specific selection criteria contained in 7 CFR 4284.942. The Agency advises all interested parties that the applicant bears the full burden in preparing and submitting an application in response to this Notice.

B. Federal Award Information

Type of Awards: Grant.

Fiscal Year Funds: FY 2023.

Available Funds: The Agency currently estimates that approximately $31 million will be available for FY 2023. RBCS may at its discretion, increase the total amount of funding available in this funding round from any authorized source provided the awards meet the requirements of the statute which made the funding available to the Agency.

Ten percent of available funds for applications will be reserved for applicants qualifying as Beginning, Veteran, and Socially-Disadvantaged Farmers or Ranchers. 7 CFR 4284.927(f)(1). An additional 10 percent of available funds will be reserved for applications from farmers or ranchers proposing development of Mid-Tier Value Chains. 7 CFR 4284.927(f)(2). Beginning, Veteran, and Socially-Disadvantaged Farmers or Ranchers and applicants proposing Mid-Tier Value Chains not awarded for reserved funds will compete with other eligible VAPG applications. In addition, any funds that become available for persistent poverty counties through enactment of FY 2023 appropriations will be allocated for assistance in persistent poverty counties. Funds not obligated from these reserves by September 30, 2023, will be used for the VAPG general competition and made available in a subsequent application cycle.

Award Amounts: Maximum Planning $75,000; Maximum Working Capital $250,000.

Anticipated Award Date: September 30, 2023.

Performance Period: Up to 36 months depending on the complexity of the project.

Renewal or Supplemental Awards: None.

Type of Assistance Instrument: Financial Assistance Agreement.

C. Eligibility Information

1. *Eligible Applicants.* Applicants must comply with other applicable Federal laws per 7 CFR 4284.905(a). Eligible applicants must meet the eligibility requirements of 7 CFR part 4284 subpart J and this Notice. Applications that fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further.

The application narrative must demonstrate that all applicant eligibility requirements of 7 CFR 4284.920 and § 4284.921 have been met. Application narratives should also take note of the definition requirements at 7 CFR 4284.902, such as by demonstrating that the applicant satisfies the definition for an ''Agricultural Producer''; how you qualify for one of the following applicant types: Independent Producer, Agricultural Producer Group, Farmer or Rancher Cooperative or Majority-Controlled Producer-Based Business Venture; and that the applicant meets the Emerging Market, Citizenship, Legal Authority and Responsibility, Multiple Grants and Active Grants requirements of the section. Required documentation to support eligibility is specified at 7 CFR 4284.931 and this Notice.

RBCS encourages applications from Federally-recognized Tribes and Tribal Entities. Federally-recognized Tribes and Tribal entities must demonstrate that they meet the definition requirements for one of the four eligible applicant types. RD State Offices and posted application toolkits will provide additional information on Tribal eligibility. Tribal applicants are encouraged to contact Agency staff early in the process to discuss applicant and project eligibility. In addition to contacting program staff Tribal applicants can contact USDA Rural Development's Tribal Relations Team with Tribal specific questions and concerns at *aian@usda.gov.*

Factors rendering an applicant ineligible are provided at 7 CFR 4284.921. The Agency will check the Do Not Pay (DNP) system to determine if the applicant or its principals has been debarred or suspended (see 7 CFR 4284.921(a)). Per the Consolidated Appropriations Act, sections 520, 744, and 745, 2023 (Pub. L. 117–328) any corporation (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds appropriated by this or any other act, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

2. *Cost-Sharing or Matching.* There is a matching fund (cost-sharing) requirement of at least $1 for every $1 in grant funds provided by the Agency (matching funds plus grant funds must equal proposed Total Project Cost). Matching funds may be in the form of cash or eligible in-kind contributions. Matching contributions and grant funds may be used only for eligible project purposes, including any contributions exceeding the minimum amount required. 7 CFR 4282.925; 7 CFR 4284.926.

Applicant matching contributions in the form of raw commodity, time contributed to the project, or goods or services for which no out-of-pocket expenditure is made during the grant period, must be characterized as in-kind contributions, subject to the requirements and limitations specified in 7 CFR 4284.925(a)–(b). Donations of goods and services from third parties must be characterized as in-kind contributions. Tribal applicants may utilize grants made available under Public Law 93–638 sec. 104(C), the Indian Self-Determination and Education Assistance Act of 1975, as their matching contribution, and should check with appropriate tribal authorities regarding the availability of such funding. Non-tribal applicant cannot provide matching funds paid by the Federal Government under another Federal award. 7 CFR 4284.931(b)(4)(iv).

Matching funds must be available at the time of application and must be certified and verified as described in 7 CFR 4284.931(b)(3) and (4). Do not include *projected* income as a matching contribution because it cannot be verified as available. Note that matching funds must also be discussed as part of the scoring criterion Commitments and Support as described below in section E.1.(c).

3. Other.

(a) *Project Eligibility.* Applicants must demonstrate within the application narrative that the project meets all the project eligibility requirements of 7 CFR 4284.922.

(1) *Product eligibility.* Applicants for both planning and working capital grants must meet all requirements at 7 CFR 4284.922(a), including that the value-added product must result from one of the five methodologies identified in the definition of Value-Added Agricultural Product at 7 CFR 4284.902. In addition, it must be demonstrated that, as a result of the project, the customer base for the agricultural commodity or value-added product will be expanded, by including a baseline of current customers for the commodity, and an estimated target number of customers that will result from the project; and that, a greater portion of the revenue derived from the marketing or processing of the value-added product is available to the applicant producer(s) of the agricultural commodity, by including a baseline of current revenues from the sale of the agricultural commodity and an estimate of increased revenues that will result from the project. Note that working capital grants for market expansion projects per 7 CFR 4284.922(b) must demonstrate expanded customer base and increased revenue resulting only from sales of existing products to new customers. The VAPG recognizes that market expansion projects may involve marketing and promotion activities such as trade shows, farmers markets, and various media advertising which also result in increased sales to existing customers. However, market expansion award recipients must use grant and matching funds only on activities that demonstrably focus on marketing products they have produced and sold for at least two years, to new markets and/or to new customers in existing markets, such that the producer's customer base (number of customers) is expanded, per program requirements. Grant and matching funds cannot be deliberately expended on sales of existing products to existing customers.

In addition, per the Agriculture Improvement Act of 2018 (Pub. L. 115–334), working capital applications must include a statement describing the direct or indirect producer benefits intended to result from the proposed project within a reasonable period of time after the receipt of a grant.

(2) *Purpose eligibility.* Applicants' purpose for the grant application, for both planning and working capital grants, must meet all requirements at 7 CFR 4284.922 regarding maximum grant amounts, verification of matching funds, eligible and ineligible uses of grant and matching funds, and a substantive, detailed work plan and budget.

(i) *Planning grants.* A planning grant is used to fund development of a defined program of economic planning activities to determine the viability of a potential value-added venture, specifically for paying a qualified consultant to conduct and develop a feasibility study, business plan, and/or marketing plan associated with the processing and/or marketing of a value-added agricultural product. Planning grant funds may not be used to fund working capital activities. 7 CFR 4284.925(a).

(ii) *Working Capital Grants.* This type of grant provides funds to operate a value-added project, specifically to pay the eligible project expenses directly related to the processing and/or marketing of the value-added products that are eligible uses of grant funds. Working capital funds may not be used for planning purposes.

(3) *Reserved funds eligibility.* To qualify for reserved funds as a Beginning, Veteran, or Socially-Disadvantaged Farmer or Rancher or for proposed development of a Mid-Tier Value Chain, the requirements found at 7 CFR 4284.923 must be met. Documentation must also be provided indicating that the applicant meets all the requirements for the applicable definition specified in 7 CFR 4284.902 and provide all of the required documentation specified in 7 CFR 4284.931. If the application is eligible, but is not awarded under the reserved funds, it will automatically be considered for general funds in that same fiscal year, as funding levels permit.

(b) *Eligible Uses of Grant and Matching Funds.* Eligible uses of grant and matching funds are discussed, along with examples, in 7 CFR 4284.925. In general, grant and cost-share matching funds have the same use restrictions and must be used to fund only the costs for eligible purposes as defined at 7 CFR 4284.925(a) and (b).

(c) *Ineligible Uses of Grant and Matching Funds.* Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a personal,

professional, financial or other interest in the outcome of the project, including organizational conflicts, and conflicts that restrict open and free competition for unrestrained trade. A list (not all-inclusive) of ineligible uses of grant and matching funds is found in 7 CFR 4284.926.

(d) *Application limit.* An applicant may submit only one application in response to a solicitation and must explicitly direct that it competes in either the general funds competition or in one of the named reserved funds competitions. 7 CFR 4284.920(e). Multiple applications from separate entities with identical or greater than 75 percent common ownership, or from a parent, subsidiary or affiliated organization (with ''affiliation'' defined by Small Business Administration regulation 13 CFR 121.103, or successor regulation) are not permitted. Further, applicants who have already received a Planning Grant for the proposed project cannot receive another Planning Grant for the same project. Applicants who have already received a Working Capital Grant for the proposed project cannot receive any additional grants for that project. Proposals from previous award recipients should be substantially different in terms of products and/or markets and should not merely be extensions of previously funded projects. Applicant entities regardless of ownership percentage that are comprised of the same individuals of a previously awarded VAPG project (recipient) can only submit proposals documenting how the new project is substantially different in terms of products and/or markets from the previously funded project.

(e) *Alcohol Projects.* Applicants who are proposing working capital grants to produce and market value-added products in the industries of wine, beer, distilled spirits or other alcoholic merchandise must comply with Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations published at 27 CFR chapter 1, including but not limited to permitting, filing of taxes and operational reports. Please visit TTB's website at *https://www.ttb.gov/* for more information. Applicant's that are not in compliance with TTB's requirements may be deemed ineligible by the Agency. If, at any time after a VAPG award has been received, the Applicant is found to be in noncompliance with TTB's operational reporting or tax requirements, the Agency may determine that the Applicant is not in compliance with the grant terms and conditions.

(f) *Hemp Projects.* In determining eligibility for the applicant, project or use of funds, any project applying for funding under the Value-Added Producer Grant program and proposing to produce, procure, supply or market any component of the hemp plant or hemp related by-products, must have a valid license from an approved State, Tribal or Federal plan pursuant to Section 10113 of the 2018 Farm Bill, be in compliance with regulations published by the Agricultural Marketing Service at 7 CFR part 990, and meet any applicable U.S. Food and Drug Administration and U.S. Drug Enforcement Administration regulatory requirements. Verification of valid hemp licenses will occur prior to award.

D. Application and Submission Information

1. *Address to Request Application Toolkit.* The application toolkit, regulation, and official program notification for this funding opportunity can be obtained online at *http://www.rd.usda.gov/programs-services/value-added-producer-grants.* You may also contact your USDA RD State Office by visiting *http://www.rd.usda.gov/contact-us/state-offices.* The toolkit contains an application checklist, templates, required grant forms, and suggestions. Based upon success of past applicants, the Agency highly recommends the use of the templates in the application toolkit. However, it is not mandatory to use the application toolkit, and only this Notice or information from *www.grants.gov,* and applicable regulations and statutes should be relied on when evaluating application requirements, grant awards, and reporting requirements.

2. *Content and Form of Application Submission.* Applications must contain all the required forms and proposal elements described in 7 CFR 4284.931, unless otherwise clarified in this notice. Applicants must become familiar with the program regulation at 7 CFR part 4284 subpart J to submit a complete and eligible application. Basic application contents are outlined below:

(a) Standard Form (SF)–424, ''Application for Federal Assistance,'' is required. 7 CFR 42484.931(a)(1). The forms require the applicant to include their Unique Entity Identifier (UEI) and expiration date (or evidence that the System for Award Management (SAM) registration process has begun). If the UEI is not included in the application, it will not be considered for funding.

(b) SF–424A, ''Budget Information—Non-Construction Programs'' is required. 7 CFR 4284.931(a)(2).

(c) Permit. Applicants must provide a valid permit or evidence of having begun the permitting process if proposing a working capital grant to produce and market value-added products in the industries of wine, beer, distilled spirits or other alcoholic merchandise; or tobacco or tobacco products, as specified in 27 CFR chapter 1.

(d) Producer license. Applicants must provide a valid producer license issued by a State, Tribe, or USDA, as applicable, or in accordance with 7 CFR part 990 if proposing to market value-added hemp products.

(e) Executive Summary and Abstract. A one-page Executive Summary containing the following information: legal name of applicant entity, application type (planning or working capital), applicant type, amount of grant request, a summary of the project, whether it is a simplified application, and whether reserved funds are being requested. Also include a separate abstract of up to 100 words briefly describing the project.

(f) Eligibility discussion. 7 CFR 4284.931(b)(1).

(g) Work plan and budget.

(h) Performance evaluation criteria. 7 CFR 4284.931(b)(2)(i).

(i) Proposal evaluation criteria. 7 CFR 4284.931(b)(2)(ii).

(j) Certification and verification of matching funds. 7 CFR 4284.931(b)(3)–(4).

(k) Optionally, reserved Funds and Priority Point documentation. 7 CFR 4284.924.

(l) Feasibility studies, business plans, and/or marketing plans, as applicable. 7 CFR 4284.931(b)(5)–(6).

(m) Appendices containing required supporting documentation.

(n) Applicants requesting less than $50,000 are permitted to submit a simplified application, the contents of which are specified in this notice. Applicants requesting Working Capital Grants of less than $50,000 are not required to provide Feasibility Studies or Business Plans but must provide information demonstrating increases in customer base and revenue returns to the producers supplying the majority of the Agricultural Commodity as a result of the project. 7 CFR 4284.932.

3. *System for Award Management and Unique Entity Identifier.*

(a) At the time of application, each applicant must have an active registration in the System for Award Management (SAM) before submitting its application in accordance with 2 CFR 25. In order to register in SAM, entities will be required to create a Unique Entity Identifier (UEI). Instructions for obtaining the UEI are available at *https://sam.gov/content/entity-registration.*

(b) Applicant must maintain an active SAM registration, with current, accurate and complete information, at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

(c) Applicant must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

(d) Applicants must provide a valid UEI in its application, unless determined exempt under 2 CFR 25.110.

(e) The Agency will not make an award until the applicant has complied with all SAM requirements including providing the UEI. If an applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

4. Submission Dates and Times. Electronic applications filed through *https://www.grants.gov* must be filed by 11:59 p.m. Eastern Time (ET) on May 11, 2023. *Grants.gov* will not accept applications submitted after the deadline.

Paper applications must be postmarked and mailed, shipped, sent overnight, hand carried, or emailed by close of business on May 16, 2023 to the USDA RD State Office where the project is located. USDA RD State Office contact information is located at *http://www.rd.usda.gov/contact-us/state-offices.* The Agency will determine if the application is late based on the date shown on the postmark or shipping invoice.

If the due date falls on a Saturday, Sunday, or Federal holiday, the application is due the next business day. The Agency will not solicit or consider new scoring or eligibility information that is submitted after the application deadline. The Agency also reserves the right to ask applicants for clarifying information and additional verification of assertions in the application. Late applications will automatically be considered ineligible and will not be evaluated further.

5. *Intergovernmental Review.* Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' applies to this program. This E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. For a list of States that maintain a SPOC, please see the White House website: *https://www.whitehouse.gov/omb/management/office-federal-financial-management/.* If your State has a SPOC, you may submit a copy of the application directly for review. Any comments obtained through the SPOC must be provided to your State Office for consideration as part of your application. If your state has not established a SPOC, you may submit your application directly to the Agency. Applications from Federally recognized Indian Tribes are not subject to this requirement.

6. *Funding Restrictions.* Funding limitations and reservations found in the program regulation at 7 CFR 4284.927 will apply, including:

(a) *Use of Funds.* Grant and matching funds may only be used for eligible purposes. Eligible and ineligible uses are provided in 7 CFR 4284.925 and § 4284.926, respectively. Grant funds may not be used to pay any costs of the project incurred prior to the date of grant approval.

(b) *Period of Performance (grant period).* The project timeframe or grant period can be a maximum of 36 months in length from the date of award, depending on the complexity of the project. 7 CFR 4284.922(5)(iv); 7 CFR 4284.927(c). The proposed grant period should begin no earlier than the anticipated award announcement date in this notice and should end no later than 36 months following that date. If an Applicant receives an award, the grant period will be revised to begin on the actual date of award—the date the grant agreement is executed by the Agency—and the grant period end date will be adjusted accordingly. The project activities should begin within 90 days of that date of award. 7 CFR 4284.927(c). The length of the grant period should be based on the project's complexity, as indicated in the application work plan. For example, it is expected that most planning grants can be completed within 12 months.

(c) *Program Income.* If Program Income is earned during the grant period as a result of the project activities, it is subject to the requirements in 2 CFR 200.307 and must be managed and reported accordingly.

(d) *Majority Controlled Producer-Based Business.* The aggregate amount of funds awarded to Majority Controlled Producer-Based Businesses in response to this announcement shall not exceed 10 percent of the total funds obligated for the program during the fiscal year. 7 CFR 4284.927(d).

(e) *Local Agriculture Marketing Program (LAMP) Food Safety Implementation.* Until Farm Bill implementation is finalized via the Agency rulemaking process, there will not be food safety reserve funding. Food safety training, certifications, and supplies that are eligible under the current program regulation may continue to be included in the work plan/budget.

(f) *Reserved Funds.* Ten percent of all funds available will be reserved to fund projects that benefit Beginning Farmers or Ranchers, Veteran Farmers or Ranchers, or Socially-Disadvantaged Farmers or Ranchers. In addition, 10 percent of total funding available will be used to fund projects that propose development of Mid-Tier Value Chains as part of a Local or Regional Supply Network. See related definitions in 7 CFR 4284.902. In addition, any funds that become available for persistent poverty counties through enactment of FY 2023 appropriations will be allocated for assistance in persistent poverty counties.

(g) *Disposition of Reserved Funds Not Obligated.* For this notice, any reserved funds that have not been obligated by September 30, 2023, will be available to the Secretary to make VAPG grants in the next Fiscal Year in accordance with section 210A(i)(3)(D)(ii) of the Agricultural Marketing Act of 1946, as amended.

7. *Other Submission Requirements.*

(a) *Electronic submission.* To apply electronically, applicant must follow the instructions for this funding announcement at *http://www.grants.gov.* Use the search features along with a keyword, program name, or the Assistance Listing Number to find the Grant Opportunity for this Notice.

To use *Grants.gov*, Applicants must already have a Unique Entity Identifier (UEI) and must also be registered and maintain registration in SAM. The UEI is assigned by SAM and replaces the formerly known Dun & Bradstreet D–U–N–S Number. The UEI must be associated with the correct tax identification number of the VAPG applicant. It is strongly recommended that Applicants do not wait until the application deadline date to begin the application process through *Grants.gov*.

If submitting the application electronically, all application documents must be submitted through *Grants.gov*.

After electronically applying through *Grants.gov*, Applicants will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.

(b) *Paper submission.* Paper or email submittals should be sent to the USDA RD State Office located in the state

where the project will primarily take place. USDA RD State Offices contact information is at *http://www.rd.usda.gov/contact-us/state-offices* . Fax submittals will not be accepted. USDA RD State Offices should be contacted if there are any questions about eligibility or submission requirements. Applicants should contact USDA RD State Offices well in advance of the application deadline to discuss the project and to ask any questions about the application process.

E. Application Review Information

1. *Criteria.* The Agency will only score applications in which the applicant and project are eligible, which are complete and sufficiently responsive to program requirements, and in which the Agency agrees on the likelihood of financial feasibility for working capital requests. Applications will be scored in accordance with the procedures and criteria specified in 7 CFR 4284.942, and with tiered scoring thresholds as specified below. For each criterion, Applicants must show how the project has merit and why it is likely to be successful. The justification for each criterion must be included in the body of the application, including summarizations of any feasibility studies, business and marketing plans. Scoring information must be readily identifiable in the application or it will not be considered. 7 CFR 4284.942(a). If Applicants do not address all parts of the criterion, or do not sufficiently communicate relevant project information, low scores will be received. The VAPG is a competitive program therefore scores received are based on the quality of the Applicant's responses. Simply addressing the criteria will not guarantee higher scores. The total maximum number of points that can be awarded for an application is 100. For this Notice, the total minimum score requirement for funding is 50 points.

The Agency application toolkit provides additional instructions to help you to respond to the criteria below.

(a) *Nature of the proposed venture (graduated score 0–30 points).* For both planning and working capital grants, Applicants must discuss the technological feasibility of the project, as well as operational efficiency, profitability, and overall economic sustainability resulting from the project. Applicants must also demonstrate the potential for expanding the customer base for the agricultural commodity or value-added product, and the expected increase in revenue returns to the producer-owners providing the majority of the raw agricultural commodity to the project. Working capital applicants must also provide the potential number of jobs that will result from the project, along with a justifiable basis for these projections. Please see the application template for more information. All applicants must reference and summarize third-party data and other information that specifically supports value-added projects; discuss the value-added process being proposed; potential markets and distribution channels; the value to be added to the raw commodity through the value-added process; cost and availability of inputs, applicant's experience in marketing the proposed or similar product; business financial statements; and any other relevant information that supports the viability of the project. Working capital applicants should demonstrate that these outcomes will result from the project and include supportable projections of increase in customer base, revenue returned to producers and jobs resulting from the project in order to receive up to the maximum number of points. Planning grant applicants should describe the expected results, and the reasons supporting those expectations. Points will be awarded as follows:

0 points will be awarded if the application does not address the criterion.

1–5 points will be awarded if the application does not address each of the following: technological feasibility, operational efficiency, profitability, and overall economic sustainability.

6–13 points will be awarded if the application addresses technological feasibility, operational efficiency, profitability, and overall economic sustainability, but do not reference third-party information that supports the success of the project.

14–22 points will be awarded if the application addresses technological feasibility, operational efficiency, profitability, and overall economic, supported by third-party information demonstrating a reasonable likelihood of success.

23–30 points will be awarded if all criterion components are well addressed, supported by third-party information, and demonstrate a high likelihood of success.

(b) *Qualifications of project personnel (graduated score 0–20 points).* Applicants must identify all individuals who will be responsible for managing and completing the proposed tasks in the work plan, including the roles and activities that owners, staff, contractors, consultants or new hires may perform; and show that these individuals have the necessary qualifications and expertise, including those hired to do market or feasibility analyses, or to develop a business operations plan for the value-added venture. Applicants must include the qualifications of those individuals responsible for leading or managing the total project (applicant owners or project managers), as well as those individuals responsible for conducting the various individual tasks in the work plan (such as consultants, contractors, staff or new hires). Applicants must discuss the commitment and the availability of any consultants or other professionals to be hired for the project; especially those who may be consulting on multiple VAPG projects. If staff or consultants have not been selected at the time of application, specific descriptions of the qualifications required for the positions to be filled must be provided. Applications that demonstrate the strong credentials, education, capabilities, experience and availability of project personnel that will contribute to a high likelihood of project success will receive more points than those that demonstrate less potential for success in these areas. Points will be awarded as follows:

0 points will be awarded if you do not address the criterion.

1–4 points will be awarded if qualifications and experience of all staff is not addressed and/or if necessary, qualifications of unfilled positions are not provided.

5–9 points will be awarded if all project personnel are identified but do not demonstrate qualifications or experience relevant to the project.

10–14 points will be awarded if most key personnel demonstrate strong credentials and/or experience, and availability indicating a reasonable likelihood of success.

15–20 points will be awarded if all personnel demonstrate strong, relevant credentials or experience, and availability indicating a high likelihood of project success.

(c) *Commitments and support (cumulative score 0–10 points).* Producer, end-user, and third-party commitments will be evaluated under this criterion. Sole proprietors can receive a maximum of 9 points. Multiple producer applications can receive a maximum of 10 points.

(1) *Independent Producer Commitments* to the project will be evaluated based on the number of named and documented independent producers currently involved in the project; and the nature, level and quality of their contributions. Points will be awarded as follows:

Sole Proprietor (one owner/producer applicant): 1 point.

Multiple Independent Producers (note that in cases where family members, such as husband and wife, are eligible Independent Producers, each family member will count as one Independent Producer): 2 points.

(2) *End-User Commitments* will be evaluated based on potential or identified markets and the potential amount of output to be purchased, as indicated by letters of intent or contracts (purchase orders) from potential buyers referenced within the application. Applications that demonstrate documented intent to purchase the value-added product will receive more points. Note that for planning grants, this criterion can be addressed by evidence of interest or support from identified or potential customers. Points will be awarded as follows:

No, or insufficiently documented, commitment from end-users: 0 points.

Well-documented commitment from one end-user: 1 point.

Well-documented commitment from more than one end-user: 2 points.

(3) *Third-party Commitments* to the project will be evaluated based on the critical and tangible nature of their contribution to the project, such as technical assistance, storage, processing, marketing, or distribution arrangements that are necessary for the project to proceed; and the level and quality of these contributions. Applications that demonstrate strong technical and logistical support to successfully complete the project will receive more points. Points will be awarded as follows:

No, or insufficiently documented, commitment from third parties: 0 points.

Well-documented commitment from one third party: 1 point.

Well-documented commitment from more than one third party: 2 points.

(4) *Letters of Commitment* by producers, end-users, and third parties should be summarized as part of the response to this criterion, and the letters must be included in Appendix B. Please note that VAPG does not require Congressional letters of support, nor do they carry any extra weight during the evaluation process. Also, note that because applications with cash matching contributions are awarded more points than those pledging only in-kind contributions, applicants will not be able to substitute an in-kind match for cash after awards are made. Points will be awarded as follows:

No cash match: 0 points.

Cash match equals less than 50 percent of the matching contribution: 1 point.

Cash match equals 50 percent or more of the matching contribution: 2 points.

Cash match equals 100 percent of the matching contribution: 4 points.

(d) *Work plan and budget (graduated score 0–20 points).* A comprehensive work plan and budget must be submitted in accordance with 7 CFR 4284.922(b)(5). The work plan must provide specific and detailed descriptions of the tasks and the key project personnel that will accomplish the project's goals. The budget must present a detailed breakdown and description of all estimated costs of project activities (including source and basis for their valuation) and allocate those costs among the listed tasks. Applicants must show the source and use of both grant and matching funds for all tasks. Matching funds must be spent at a rate equal to, or in advance of, grant funds. An eligible start and end date for the entire project, as well as for each individual project task must be clearly shown. The project timeframe must not exceed 36 months and should be scaled to the complexity of the project. Working capital applications must include an estimate of program income expected to be earned during the grant period (see 2 CFR 200.307). Points will be awarded as follows:

0 points will be awarded if the application does not address the criterion.

1–7 points will be awarded if the work plan and budget do not account for all project goals, tasks, costs, timelines, and responsible personnel.

8–14 points will be awarded if the application provides a clear, comprehensive work plan detailing all project goals, tasks, timelines, costs, and responsible personnel in a logical and realistic manner that demonstrates a reasonable likelihood of success.

15–20 points will be awarded if the application provides a clear, comprehensive work plan detailing all project goals, tasks, timelines, costs, and responsible personnel in a logical and realistic manner that demonstrates a high likelihood of success.

(e) *Priority points up to 10 points (lump sum 0 or 5 points plus, cumulative score 0–5 points).* Priority points may be awarded in both the general funds and reserved funds competitions.

(1) Five (5) points will be awarded if the applicant meets the requirements for one of the following categories and provide the documentation described in 7 CFR 4284.923 and 4284.924 as applicable: Beginning Farmer or Rancher, Socially-Disadvantaged Farmer or Rancher, Veteran Farmer or Rancher, or Operator of a Small or Medium-sized Farm or Ranch that is structured as a Family Farm, Farmer or Rancher Cooperative, or are proposing a Mid-Tier Value Chain project.

(2) Up to 5 priority points will be awarded if the Applicant is an Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture (referred to below as ''applicant group'') whose project ''best contributes to creating or increasing marketing opportunities'' for Operators of Small and Medium-sized Farms and Ranches that are structured as Family Farms, Beginning Farmers and Ranchers, Socially-Disadvantaged Farmers and Ranchers, and Veteran Farmers and Ranchers (referred to below as ''priority groups''). For each of the priority point levels below, applications must demonstrate how the proposed project will contribute to new or increased marketing opportunities for respective priority groups. Applicants will not be awarded more than 5 points even if they qualify for more than one of the priority categories.

(i) Two (2) priority points will be awarded if the existing membership of the applicant group is comprised of either more than 50 percent of any one of the four priority groups or more than 50 percent of any combination of the four priority groups.

(ii) One (1) additional priority point will be awarded if the existing membership of the applicant group is comprised of two or more of the priority groups. One point is awarded regardless of whether a group's membership is comprised of two, three, or all four of the priority groups.

(iii) Two (2) additional priority points will be awarded if the applicant's proposed project will increase the number of priority groups that comprise applicant membership by one or more priority groups. However, if an applicant group's membership is already comprised of all four priority groups, such an applicant would not be eligible for points under this criterion because there is no opportunity to increase the number of priority groups. Note also that this criterion does not consider either the percentage of the existing membership that is comprised of the four priority groups or the number of priority groups currently comprising the applicant group's membership.

(f) *Administrator priority categories (cumulative score 0–10 points).* The Administrator of the Agency may choose to award priority points to improve the geographic diversity of awardees and to applications for projects that will advance RD Key

Priorities (*https://www.rd.usda.gov/priority-points*) as defined and measured on the RD Key Priorities website.

(1) Applications may also be awarded points for the following three priorities:

(i) Assisting rural communities recover economically through more and better market opportunities and through improved infrastructure. Proposals where the project is located in or serving one of the top 10% of counties or county equivalents based upon county risk score in the United States. Information on this priority may be found at: *https://www.rd.usda.gov/priority-points.*

(ii) Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects. Direct technical assistance to a project located in or serving a community with a score 0.75 or above on the CDC Social Vulnerability Index. Information on this priority may be found at: *https://www.rd.usda.gov/priority-points.*

(iii) Reduce climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities. Direct technical assistance to a project addressing climate impacts shown as either quantitative or qualitative. Additional information on this priority may be found at: *https://www.rd.usda.gov/priority-points.*

(A) *Quantitative:* Project is located in or serving coal, oil and gas, and power plant communities whose economic well-being ranks in the most distressed tier of the Distressed Communities Index.

(B) *Qualitative:* Demonstrating how proposed climate-impact projects improve the livelihoods of community residents and meet pollution mitigation or clean energy goals.

(2) The Agency will confirm if the project is located in an area qualifying for these priorities. However, the applicant can provide a written narrative in the application on how the project reduces climate pollution and increases resilience to the impacts of climate change if the project is not located in or serving coal, oil and gas, and power plant communities whose economic well-being ranks in the most distressed tier.

2. *Review and Selection Process.* Applications will be reviewed and processed as described at 7 CFR 4284.940. The Agency will review applications to determine if they are complete and eligible. If at any time, the Agency determines that the application is ineligible, the Applicant will be notified in writing as to the reasons it was determined ineligible and will be informed of review and appeal rights. Funding of successfully appealed applications will be limited to available funds.

The Agency will select applications for award under this notice in accordance with the provisions specified in 7 CFR 4284.950(a).

If an application is eligible and complete, it will be qualitatively scored by at least two reviewers based on criteria specified in section E.1. of this Notice. One of these reviewers will be an experienced RD employee from the applicable servicing State Office and at least one additional reviewer will be a non-Federal, independent reviewer. Independent reviewers must have at least a bachelor's degree in one or more of the following fields: agri-business, agricultural economics, agriculture, animal science, business, marketing, economics or finance; or a minimum of 8 years of experience in an agriculture-related field (*e.g.,* farming, marketing, consulting, or research; or as university faculty, trade association official, or non-Federal government official in an agriculturally related field). Each reviewer will score evaluation criteria (a) through (d) and the totals for each reviewer will be added together and averaged. The RD State Office reviewer will also assign priority points based on criterion (e) and (f) in section E.1. of this notice. These will be added to the average score. The sum of these scores will be ranked highest to lowest and this will comprise the initial ranking. To become a non-federal independent reviewer, please contact Grant Solutions at *vapgreview@grantreview.org.*

The Administrator of the Agency may choose to award up to 10 Administrator priority points based on criteria (f) in section E.1. of this Notice. These points will be added to the cumulative score for a total possible score of 100.

A final ranking will be obtained based solely on the scores received for criteria (a) through (d) and priority point under (e) and (f). A minimum score of 50 points is required for funding. Applications for reserved funds will be funded in rank order until funds are depleted. Unfunded reserve applications will be returned to the general funds where applications will be funded in rank order until the funds are expended. Funding for Majority Controlled Producer-Based Business Ventures is limited to 10 percent of total grant funds expected to be obligated as a result of this notice. These applications will be funded in rank order until the funding limitation has been reached. Grants to these applicants from reserved funds will count against this funding limitation. In the event of tied scores, the Administrator shall have discretion in breaking ties. The Agency reserves the right to offer the applicant less than the grant funding requested.

If the application is ranked, but not funded, it will not be carried forward into the next application funding cycle.

F. Federal Award Administration Information

1. *Federal Award Notices.* If you are selected for funding, you will receive a signed Notice of Federal award containing instructions on requirements necessary to proceed with execution and performance of the award.

If you are not selected for funding, you will be notified in writing and informed of any review and appeal rights. Funding of successfully appealed applications will be limited to available funding.

2. *Administrative and National Policy Requirements.* Additional requirements that apply to grantees selected for this program can be found in 7 CFR part 4284 subpart J; the Grants and Agreements regulations of the Department of Agriculture codified in 2 CFR 180, 200, 400, 415, 417, 418, 421; 2 CFR 25 and 170; and 48 CFR 31.2, and successor regulations to these parts.

In addition, all recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation (see 2 CFR part 170). You will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282) reporting requirements (see 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)). More information on these requirements can be found at *http://www.rd.usda.gov/programs-services/value-added-producer-grants.*

The following additional requirements apply to grantees selected for this program:

(i) Agency approved Financial Assistance Agreement.

(ii) Letter of Conditions.

(iii) Form RD 1940–1, ''Request for Obligation of Funds.''

(iv) Form RD–400–4, ''Assurance Agreement.''

(v) SF LLL, ''Disclosure of Lobbying Activities,'' if applicable.

(vi) Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

(vii) Use Form SF 270, ''Request for Advance or Reimbursement.''

3. *Reporting.* After grant approval and through grant completion, you will be required to provide the following, as indicated in the Financial Assistance Agreement and specified at 7 CFR 4284.960:

(a) An SF–425, ''Federal Financial Report,'' and a project performance

report will be required on a semiannual basis (due 30 working days after end of the semiannual period). For the purposes of this grant, semiannual periods end on March 31st and September 30th. The project performance reports shall include the elements prescribed in the Financial Assistance Agreement.

(b) A final project and financial status report within 120 days after the expiration or termination of the grant.

(c) Provide outcome project performance reports and final deliverables.

G. Federal Awarding Agency Contacts

If you have questions about this notice, please contact the USDA RD State Office as identified in the **ADDRESSES** section of this notice. You may also contact National Office staff at *CPGrants@wdc.usda.gov* or call the main line at (202) 720–1400.

H. Other Information

1. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection requirements associated with the programs, as covered in this Notice, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0064.

2. National Environmental Policy Act. All recipients under this Notice are subject to the requirements of 7 CFR part 1970. However, awards for planning and working capital grants under this Notice are classified as a Categorical Exclusion according to 7 CFR 1970.53(b), and usually do not require any additional documentation. The Agency will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist the Agency with this determination.

3. Federal Funding Accountability and Transparency Act. All applicants, in accordance with 2 CFR part 25, must be registered in SAM and have a UEI as stated in Section D.3. of this Notice. All recipients of Federal financial assistance are required to report information about first-tier subawards and executive total compensation in accordance with 2 CFR part 170.

4. Civil Rights Act. All grants made under this Notice are subject to title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15 subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of title VI of the Civil Rights Act of 1964) and section 504 of the Rehabilitation Act of 1973, title VIII of the Civil Rights Act of 1968, title IX, Executive Order 13166 (Limited English Proficiency), Executive Order 11246, and the Equal Credit Opportunity Act of 1974.

5. Nondiscrimination Statement. In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the 711 Relay Service.

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

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

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

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

USDA is an equal opportunity provider, employer, and lender.

Karama Neal,

Administrator, Rural Business—Cooperative Service, USDA Rural Development.

[FR Doc. 2023–05470 Filed 3–16–23; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket #: RBS–22–CO–OP–0032]

Notice of Funding Opportunity for the Socially Disadvantaged Groups Grant for Fiscal Year 2023

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the Rural Business-Cooperative Service (RBCS, Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), invites applications for grants under the Socially Disadvantaged Groups Grant (SDGG) program for Fiscal Year (FY) 2023. This notice is being issued to allow applicants sufficient time to leverage financing, prepare and submit their applications, and give the Agency time to process applications within FY 2023. A total of $3,000,000 in grant funding will be available for FY 2023. Successful applications will be selected by the Agency for funding and subsequently awarded to the extent that funding may ultimately be made available through appropriations. All applicants are responsible for any expenses incurred in developing and submitting their applications.

DATES: Complete applications for grants must be submitted electronically by 4:30 p.m. local time on May 16, 2023, through *https://www.grants.gov* to be eligible for grant funding. Applications received after the deadline are not eligible for funding under this notice and will not be evaluated. Applicants are advised to not wait until the application deadline date to begin the application process through *Grants.gov*.

ADDRESSES: Applicants are encouraged to contact the USDA RD State Office well in advance of the application deadline to discuss the project and ask any questions about the application process. Contact information for USDA RD State Offices can be found at *https://www.rd.usda.gov/contact-us/state-offices.*

Program guidance as well as application templates may be obtained at *https://www.rd.usda.gov/programs-*

services/socially-disadvantaged-groups-grant or by contacting the USDA RD State Office. To submit an electronic application, follow the instructions for the SDGG funding announcement located at *https://www.grants.gov.* Applicants are strongly encouraged to file applications early to allow sufficient time to manage any technical issues.

FOR FURTHER INFORMATION CONTACT: Arti Kshirsagar at *arti.kshirsagar@usda.gov,* Loan & Grant Analyst, Program Management Division, RBCS, USDA, 1400 Independence Avenue SW, Mail Stop 3226, Washington, DC 20250–3226 or call (202) 720–1400. Persons with disabilities that require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice); or the 711 Relay Service.

SUPPLEMENTARY INFORMATION:

Overview

Federal Awarding Agency Name: Rural Business-Cooperative Service.

Funding Opportunity Title: Socially Disadvantaged Groups Grant.

Announcement Type: Notice of Funding Opportunity (NOFO).

Funding Opportunity Number: RBCS–SDGG–2023.

Assistance Listing Number: 10.871.

Dates: Complete applications for grants must be submitted electronically no later than 4:30 p.m. local time on May 16, 2023, through *https://www.grants.gov* to be eligible for grant funding. Applications received after the deadline are not eligible for funding under this notice and will not be evaluated.

Rural Development Key Priorities. The Agency encourages applicants to consider projects that will advance the following key priorities (more details available at *https://www.rd.usda.gov/priority-points*):

- Assisting rural communities recover economically through better market opportunities and through improved infrastructure;
- Ensuring all rural residents have equitable access to Rural Development (RD) programs and benefits from RD funded projects; and
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

A. Program Description

1. *Purpose of the Program.* The primary objective of the SDGG program is to provide technical assistance to socially disadvantaged groups through cooperatives and Cooperative Development Centers. Grants must be used to provide technical assistance to socially disadvantaged groups in rural areas. Technical assistance includes feasibility studies, business plans, strategic planning, and leadership training. Eligible applicants are cooperative development centers, individual cooperatives, or groups of cooperatives (i) that serve socially disadvantaged groups and (ii) of which a majority of the board of directors or governing board is comprised of individuals who are members of socially disadvantaged groups.

2. *Statutory and Regulatory Authority.* The SDGG program is authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)(11)).

Section 736 of the Consolidated Appropriations Act, 2023, Public Law 117–328 (the ''2023 Appropriations Act''), designates funding for projects in persistent poverty counties. Persistent poverty counties as defined in Section 736 is ''any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses, and 2007–2011 American Community Survey 5-year average, or any territory or possession of the United States''. Another provision in Section 736 expands the eligible population in persistent poverty counties to include any county seat of such a persistent poverty county that has a population that does not exceed the authorized population limit by more than 10 percent. This provision expands the current 50,000 population limit to 55,000 for county seats located in persistent poverty counties. Therefore, applicants and/or beneficiaries of technical assistance services located in persistent poverty county seats with populations up to 55,000 (per the 2010 Census) are eligible.

3. *Definitions.* The definitions applicable to this notice are as follows:

Agency—RBCS, an agency of the USDA RD or a successor agency.

Conflict of interest—A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the project or that restrict open and free competition for unrestrained trade. Specifically, project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. Examples of conflicts of interest include using grant funds to pay a member of the applicant's board of directors to provide proposed technical assistance to socially disadvantaged groups, paying a cooperative member to provide proposed technical assistance to other members of the same cooperative, and paying an immediate family member of the applicant to provide proposed technical assistance to socially disadvantaged groups.

Cooperative—A business or organization that is owned and operated for the benefit of its members, with returns of residual earnings paid to such members based on patronage. Eligible cooperatives for the SDGG program are those where a majority of the board of directors or governing board are comprised of individuals who are members of socially disadvantaged groups.

Cooperative development center—A nonprofit corporation or institution of higher education operated by the grantee for cooperative or business development. An eligible cooperative development center for the SDGG program is one where a majority of the board of directors or governing board are comprised of individuals who are members of socially disadvantaged groups. It may or may not be an independent legal entity separate from the grantee.

Feasibility study—An analysis of the economic, market, technical, financial, and management feasibility of a proposed project.

Group of cooperatives—A group of cooperatives whose primary focus is to provide assistance to socially disadvantaged groups; each cooperative must meet the eligibility requirements set forth in the definition of ''cooperative'' herein. One of the cooperatives must be designated as the lead entity and have legal authority to contract with the federal government.

Immediate family(ies)—A group of individuals who live in the same household or who are closely related by blood, marriage, or adoption, such as a spouse, domestic partner, parent, child, sibling, aunt, uncle, grandparent, grandchild, niece, nephew, or first cousin.

Operating cost—The day-to-day expenses of running a business; for example: utilities, rent on the office space a business occupies, salaries, depreciation, marketing and advertising, and other basic overhead items.

Participant support costs—Direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to

or on behalf of participants or trainees (but not employees) in connection with conferences or training projects.

Project—Any activities to be funded by the SDGG.

Rural and rural area—Any area of a state other than (a) a city or town that has a population of more than 50,000 inhabitants, according to the latest decennial census of the United States and (b) any urbanized area contiguous and adjacent to a city or town described in clause (a), and urbanized areas that are rural in character as defined by 7 U.S.C. 1991(a)(13)(D). For the purposes of this definition, cities and towns are incorporated population centers with definite boundaries, local self-government, and legal powers set forth in a charter granted by the state. Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu Census Designated Place or the San Juan Census Designated Place.

Rural Development (RD)—A mission area within USDA consisting of the Office of Under Secretary for RD, RBCS, Rural Housing Service (RHS), and Rural Utilities Service (RUS) and any successors.

Socially disadvantaged group—A group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

State—Includes each of the 50 states, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands. References in this program to State, State government, or State agency are meant to include the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, as may be determined by the Secretary to be feasible, appropriate, and lawful, the Freely Associated States and the Federated States of Micronesia.

Technical assistance—An advisory service performed for the purpose of assisting cooperatives or groups that want to form cooperatives such as market research, product and/or service improvement, legal advice and assistance, feasibility study, business planning, marketing plan development, and training.

4. *Application of Awards.* The Agency will review, evaluate, and score applications received in response to this notice based on Section E of this notice. Awards under the SDGG program will be made on a competitive basis using specific selection criteria contained in Section E.1 of this notice. The Agency advises all interested parties that the applicant bears the full burden in preparing and applying in response to this notice.

B. Federal Award Information

Type of Award: Grants.

Fiscal Year Funds: FY 2023.

Available Funds: $3,000,000 will be available for FY 2023. RBCS may, at its discretion, increase the total level of funding available in this funding round [or in any category in this funding round] from any available source provided the awards meet the requirements of the statute which made the funding available to the Agency.

Award Amount: Maximum is $175,000.

Anticipated Award Date: September 30, 2023.

Performance Period: One (1) year.

Renewal or Supplemental Awards: None.

Type of Assistance Instrument: Financial Assistance Agreement.

C. Eligibility Information

1. *Eligible Applicants.* Grants may be made to individual cooperatives, groups of cooperatives, or cooperative development centers that serve socially disadvantaged groups and of which a majority of the board of directors or governing board of the applicant is comprised of individuals who are members of socially disadvantaged groups. Federally recognized Tribes have a government-to-government relationship with the United States. Therefore, Tribes may consider using a separate entity, such as a tribally owned business, tribal authority, tribal non-profit, tribal college, or university to apply for SDGG funding that would provide technical assistance to members of the Tribe. Applications submitted must include the following for eligibility determination:

(a) Required Documentation Applicants must verify their legal structure in the state or the Tribe under which the applicants are legally organized or incorporated.

(b) Applicants must demonstrate that all defined requirements for one of the three eligible applicant types have been met. These three eligible applicant types are: individual cooperatives, groups of cooperatives, or cooperative development centers.

An applicant is ineligible if:

(a) It is a public body or individual.

(b) It has been debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ''Debarment and Suspension.'' The Agency will check the Do Not Pay (DNP) system to determine if the applicant has been debarred or suspended at the time of application and prior to funding any grant award.

(c) It has an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court), is delinquent on the payment of Federal income taxes, or is delinquent on Federal debt. The applicant must certify as part of the application that there are no outstanding judgments against them. The applicant is responsible for resolving any issues that are reported in the 'Do Not Pay' System and if issues are not resolved by the deadline found in this notice, the Agency may proceed to award funds to other eligible applicants.

(d) Any corporation or cooperative (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds appropriated by the 2023 Appropriations Act, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. Certification of compliance with this provision is now completed during registration or annual recertification in the System for Award Management (SAM) at SAM.gov via the Financial Assistance General Certifications and Representations.

2. *Cost sharing or matching.* There is no cost sharing or matching requirements associated with this grant.

3. *Other eligibility requirements.*

(a) *Use of funds.* Applications must propose technical assistance that will benefit -socially disadvantaged groups. Any recipient of technical assistance must have a membership that consists of a majority of members from socially disadvantaged groups. Please review Section D.6 of this notice carefully.

(b) *Project eligibility.* Proposed projects must only serve members of

socially disadvantaged groups located in rural areas.

(c) *Grant period eligibility.* Applications must include a grant period of one-year or less or it will not be considered for funding. The proposed time frame should begin no earlier than October 1, 2023 and end no later than December 31, 2024. Applications that request funds for a time period ending after December 31, 2024, will not be considered for funding. Projects must be completed by December 31, 2024, or within 12 months of award funding, whichever is earlier.

The Agency may approve requests to extend the grant period for up to an additional 12 months at its discretion. However, applicants may not have more than one SDGG award during the same grant period. If you extend the period of performance for your current award, you may be deemed ineligible to receive an SDGG in the next grant cycle. Further guidance on grant period extensions will be provided in the award document.

(d) *Satisfactory performance eligibility.* If applicants have an existing SDGG award, current performance must be satisfactory to be considered eligible for a new SDGG award. Satisfactory performance includes being up to date on all financial and performance reports as prescribed in the grant award and being current on tasks and timeframes for utilizing grant and matching funds as approved in the work plan and budget. If applicants have any unspent grant funds on SDGG awards from projects prior to September 30, 2021, the application will not be considered for funding. If an applicant's FY 2022 award has unspent funds of 50 percent or more than what the approved work plan and budget projected at the time of evaluation of the FY 2022 application, the FY 2023 application may not be considered for funding. The Agency will verify the performance status of any FY 2022 awards and make a determination after the FY 2023 application period closes.

(e) *Completeness eligibility.* Applications must provide all the information requested in Section D.2 of this notice. Applications lacking sufficient information to determine eligibility and scoring criteria will be considered ineligible.

(f) *Duplication of current services.* Applications must demonstrate that services are being provided to new customers or new services to current customers. If the work plan and budget are duplicative of an existing award, the application will not be considered for funding. If the work plan and budget are duplicative of a previous or existing Rural Cooperative Development Grant (RCDG) and/or SDGG award, the application will not be considered for funding.

(g) *Multiple grant eligibility.* Applicants may submit only one SDGG grant application each funding cycle. If two (2) applications are submitted (regardless of the applicant's name) that include the same Executive Director and/or advisory boards or committees of an existing cooperative or cooperative development center, both applications will be determined ineligible for funding.

D. Application and Submission Information

1. *Application template.* An application template to assist applicants in applying for this funding opportunity is located at *https://www.rd.usda.gov/programs-services/socially-disadvantaged-groups-grant.* Use of the application template is strongly recommended to assist with the application process. Application information is also available at *www.grants.gov.* Applicants may also contact the USDA RD State Office for more information at *https://www.rd.usda.gov/contact-us/state-offices.*

2. *Content and form of application submission.* An application must contain all the required forms and proposal elements outlined below.

(a) *Standard Form SF–424, ''Application for Federal Assistance.''* This form should include the applicant's Unique Entity Identifier (UEI) number. The UEI is assigned automatically to all active *SAM.gov* registered entities If an applicant does not include the UEI number in the application, it will not be considered for funding.

(b) *Form SF–424A, ''Budget Information-Non-Construction Programs.''* This form must be completed and submitted as part of the application package. Applicants are no longer required to complete the Form SF 424B, ''Assurances—Non-Construction Programs'' as a part of the application. This information is now collected through the applicant registration or annual recertification in *SAM.gov* through the Financial Assistance General Certifications and Representations.

(c) *Federal Debt and Judgement Certification.* Applicants must certify that there are no current outstanding Federal judgments against the applicant's property and that no grant funds will be used to pay for any judgment obtained by the United States. Applicants must also certify that they are not delinquent on the payment of Federal income taxes, or any Federal debt. There is no standard form to complete, but to satisfy the certification requirement, applicants should include this statement in the application: ''[INSERT NAME OF APPLICANT] certifies that the United States has not obtained an unsatisfied judgment against its property, is not delinquent on the payment of Federal income taxes, or any Federal debt, and will not use grant funds to pay any judgments obtained by the United States.'' A separate signature is not required.

(d) *Table of Contents.* Applications must contain a detailed Table of Contents (TOC) that includes page numbers for each part of the application. Page numbers should begin immediately following the TOC.

(e) *Executive Summary.* A summary of the proposal, not to exceed one (1) page, must briefly describe the project, tasks to be completed, and other relevant information that provides a general overview of the project.

(f) *Eligibility Discussion.* A detailed discussion, not to exceed four (4) pages, must describe how the applicant will meet the following requirements:

(1) *Applicant Eligibility.* Applicants must describe how they meet the definition of a cooperative, group of cooperatives, or cooperative development center. Applications must also show that the individual cooperative, group of cooperatives or cooperative development center has a majority of its board of directors or governing board comprised of individuals who are members of socially disadvantaged groups, and that the applicant serves socially disadvantaged groups. The application must include a list of the board of directors/governing board and the percentage of board of directors/governing board that are members of socially disadvantaged groups. NOTE: Applications will not be considered for funding if it fails to show that a majority of the board of directors/governing board is comprised of individuals who are members of socially disadvantaged groups.

Applicants must verify their incorporation and status in the state that they have applied by providing the State or Tribe's Certificate of Good Standing and Articles of Incorporation. Bylaws may also be submitted if they provide additional information not included in the Articles of Incorporation that will help verify the applicant's legal status. If applying as an institution of higher education, documentation verifying legal status is not required; however, the applicant must demonstrate that they qualify as an Institution of Higher

Education as defined at 20 U.S.C. 1001. Applicants can only apply as one (1) type of applicant. The requested verification documents should be included in Appendix A of the application. If the documents are not included, the application will not be considered for funding.

(2) *Use of Funds.* Applications must include a brief discussion on how the proposed project activities meet the definition of technical assistance and identify the socially disadvantaged groups that will be assisted.

(3) *Project Area.* Applications must provide specific information that details the location of the Project area and explain how the area meets the definition of ''rural area.''

(4) *Grant Period.* Applications must include a time frame for the proposed project and discuss how the project will be completed within that time frame. See the performance period section above for more information.

(5) *Indirect Costs.* Applicants should indicate in the application if there is a negotiated indirect cost rate agreement (NICRA), and if so, the rate. The negotiated indirect cost rate approval does not need to be included in the application, but it will be required to be provided if a grant is awarded. Approval for indirect costs that are requested in an application without an approved indirect cost rate agreement is at the discretion of the Agency.

(g) *Scoring Criteria.* Each of the scoring criteria in Section E.1 in this notice must be addressed in narrative form, with a maximum of three (3) pages for each individual scoring criterion, unless otherwise specified. Failure to address each scoring criterion will result in the application being determined ineligible.

(h) *Annual Performance Measures.* The Agency has established annual performance evaluation measures to evaluate the SDGG program. The applicant must provide estimates on the following performance evaluation measures as part of the narrative:

(1) Number of cooperatives assisted; and

(2) Number of socially disadvantaged groups assisted.

3. *System for Award Management and Unique Entity Identifier.*

(a) At the time of application, applicants must have an active registration in the System for Award Management (SAM) before applying in accordance with 2 CFR part 25. To register in SAM, entities will be required to create a Unique Entity Identifier (UEI). Instructions for obtaining the UEI are available at *https://sam.gov/content/entity-registration.*

(b) Applicants must maintain an active SAM registration, with current, accurate and complete information, at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

(c) Applicants must complete the Financial Assistance General Certifications and Representations in SAM.

(d) Applicants must provide a valid UEI in its application, unless determined exempt under 2 CFR 25.110.

(e) The Agency will not make an award until the applicant has complied with all SAM requirements including providing the UEI. If an applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

4. *Submission Dates and Times.*

(a) *Application Technical Assistance Deadline Date.* Prior to official submission of applications, applicants may request technical assistance or other application guidance from their State Office, if such requests are made prior to April 17, 2023. Agency contact information can be found in the **ADDRESSES** section of this notice.

(b) *Application Deadline Date.* Complete applications for grants must be submitted electronically no later than 4:30 p.m. local time on May 16, 2023, through *https://www.grants.gov* to be eligible for grant funding. Please review the *Grants.gov* website at *https://www.grants.gov/web/grants/applicants/organization-registration.html* for instructions on the process of registering your organization as soon as possible to ensure that you are able to meet the electronic application deadline.

Applications received after the deadline are not eligible for funding under this notice and will not be evaluated. The Agency will not solicit or consider new scoring or eligibility information that is submitted after the application deadline. RBCS also reserves the right to ask applicants for clarifying information and additional verification of assertions in the application.

5. *Intergovernmental Review.* Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' applies to this program. This E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many states have established a Single Point of Contact (SPOC), please see the White House website: *https://www.whitehouse.gov/omb/management/office-federal-financial-management/.* If your State has a SPOC, you may submit a copy of the application directly for review. Any comments obtained through the SPOC must be provided to the USDA RD State Office for consideration as part of your application. If your state has not established a SPOC, you may submit your application directly to the Agency. Applications from Federally recognized Indian Tribes are not subject to this requirement.

6. *Funding Restrictions.* Grant funds must be used for technical assistance as defined.

(a) No funds made available under this notice shall be used to:

(1) Plan, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility;

(2) Purchase, rent, or install fixed equipment, including processing equipment;

(3) Purchase vehicles, including boats;

(4) Pay for the preparation of the grant application;

(5) Pay expenses not directly related to the funded project;

(6) Fund political or lobbying activities;

(7) Fund any activities considered unallowable by the applicable grant cost principles, including 2 CFR part 200, subpart E and the Federal Acquisition Regulation as stated in 48 CFR chapter 1, subchapter E, part 31;

(8) Fund architectural or engineering design work for a specific physical facility;

(9) Fund any direct expenses to produce any commodity or product to which value will be added, including seed, rootstock, labor for harvesting the crop, and delivery of the commodity to a processing facility;

(10) Fund research and development;

(11) Purchase land;

(12) Duplicate current activities or activities paid for by other Federal grant programs;

(13) Pay costs of the project incurred prior to the date of grant approval;

(14) Pay for assistance to any private business enterprise that does not have at least fifty-one (51) percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(15) Pay any judgment or debt owed to the United States;

(16) Pay any operating costs of the cooperative, group of cooperatives, or cooperative development center not directly related to the project;

(17) Pay expenses for applicant employee training or professional development not directly related to the project;

(18) Pay for any goods or services from a person or entity who has a conflict of interest with the grantee; or

(19) Pay for technical assistance provided to a cooperative that does not have a membership that consists of a majority of members from socially disadvantaged groups.

(b) Applications will not be considered for funding if it does any of the following:

(1) Requests more than the maximum grant amount;

(2) Proposes ineligible costs that equal more than ten (10) percent of total grant funds requested; or

(3) Proposes participant support costs that equal more than ten (10) percent of total grant funds requested.

(c) The Agency will consider an application for funding if it includes ineligible costs of ten (10) percent or less of total grant funds requested if it is determined eligible otherwise. However, if the application is successful, those ineligible costs must be removed and replaced with eligible costs before the Agency will make the grant award or the amount of the grant award will be reduced accordingly. If the Agency cannot determine the percentage of ineligible costs, the application will not be considered for funding.

(d) No assistance or funding from this grant can be provided to a hemp producer without a valid license issued from an approved State, Tribal or Federal plan in accordance with Subtitle G of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). Verification of valid hemp licenses will occur at the time of award. The purpose of this program is to provide technical assistance, so funding to produce hemp or marketing hemp production is not eligible.

7. *Other Submission Requirements.* Applications will not be accepted if the text is less than an 11-point font. Applications will not be accepted through mail or courier delivery, in-person delivery, email, or fax. Applications must be submitted electronically through *www.grants.gov.* A password is not required to access the website. Applicants can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, Assistance Listing number, or the Funding Opportunity Number for this program.

The *Grants.gov* website provides information about applying electronically through the site, as well as the hours of operation. Users of *Grants.gov* must already have a UEI number and must also be registered and maintain registration in SAM. The UEI is assigned by SAM and replaces the formerly known Dun & Bradstreet D–U–N–S Number. The UEI number must be associated with the correct tax identification number of the SDGG applicant. 2 CFR part 25 requires registration in SAM. It is strongly recommended that applicants do not wait until the application deadline date to begin the application process through *Grants.gov.*

Applications must include electronic signatures. Original signatures may be required if funds are awarded. After applying electronically through *Grants.gov*, applicants will receive an automated acknowledgement from *Grants.gov* that contain a *Grants.gov* tracking number.

E. Application Review Information

1. *Selection Criteria.* All eligible and complete applications will be evaluated and scored based on the following selection criteria and weights. Evaluators will base scores only on the information provided or cross-referenced by page number in each individual evaluation criterion. SDGG is a competitive program, so applications will receive scores based on the quality of the responses. Simply addressing the criteria will not guarantee higher scores. The total points possible for the criteria are 105.

(a) *Technical Assistance (maximum score of 25 points).* Three-page limit. A panel of USDA employees will evaluate the applications to determine the ability to assess the needs of and provide effective technical assistance to socially disadvantaged groups. Applicants must discuss the:

(1) Needs of the socially disadvantaged groups to be assisted and explain how those needs were determined,

(2) Proposed technical assistance to be provided to the socially disadvantaged groups; and

(3) Expected outcomes of the proposed technical assistance, including how socially disadvantaged groups will benefit from participating in the project. Applicants will score higher on this criterion if examples of the entity's past projects that demonstrate successful outcomes in identifying specific needs and providing technical assistance to socially disadvantaged groups are provided.

(b) *Work Plan/Budget (maximum of 25 points).* Six-page limit. Work plans must provide specific and detailed descriptions of the tasks and the key project personnel that will accomplish the project's goals. The budget will be reviewed for completeness. Applicants must list what tasks are to be done, when the tasks will be done, who will do the tasks, and how much the tasks will cost. Reviewers must be able to understand what is being proposed and understand how all the grant funds will be spent. The budget must provide a detailed breakdown of estimated costs. These costs should be allocated to each of the tasks to be undertaken. (For example: Joe Smith has committed 20% of his time. Joe's salary is $60,000 × 20% = $12,000. Project requires travel within United States. From main office it is 150 miles at $.585/mile = $175.50 Round trip. Overnight trips motel with tax $189/night for 3 overnights = $567.00. Supplies include 2 boxes of paper @ $50 each = $100. etc.) A panel of USDA employees will evaluate the work plan for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic, and efficient plans that allocate costs to specific tasks using applicable budget object class categories provided on the Form SF–424A will result in a higher score. At a minimum, the following must be discussed:

(1) Specific tasks to be completed using grant funds;

(2) How customers will be identified;

(3) Key personnel and what tasks they are undertaking; and

(4) The evaluation methods to be used to determine the success of specific tasks and overall project objectives. Please provide qualitative methods of evaluation. For example, evaluation methods should be measurable and go beyond quantitative measurements of completing surveys or number of evaluations. Examples include discussions of pre-test, post-test, and the evaluation of how task results will be measured.

(c) *Experience (maximum score of 25 points).* Three-page limit. A panel of USDA employees will evaluate the applicant's experience, commitment, and availability for identified staff or consultants in providing technical assistance, as defined in this notice. Applicants must describe the technical assistance experience for each identified staff member or consultant, as well as years of experience in providing that assistance. Applicants must discuss the commitment and the availability of identified staff, consultants, or other professionals to be hired for the project—especially those who may be consulting on multiple SDGG/RCDG projects. If staff or consultants have not been selected at the time of application, the applicants must provide specific

descriptions of the qualifications required for the positions to be filled. In addition, resumes for each individual staff member or consultant must be included as an attachment in Appendix B of the application. The attachments will not count toward the maximum page total. The Agency will compare the described experience in this section and in the resumes to the work plan to determine relevance of the experience. Applications that do not include the attached resumes will not be considered for funding. Applications that demonstrate strong credentials, education, capabilities, experience, and availability of project personnel, that will contribute to a high likelihood of project success will receive more points than those that demonstrate less potential for success in these areas. Points will be awarded as follows:

(1) 0 points will be awarded if you do not substantively address the criterion.

(2) 1–9 points will be awarded if qualifications and experience of some, but not all, staff is addressed and, if necessary, qualifications of unfilled positions are not provided.

(3) 10–14 points will be awarded if (2) is met, plus all project personnel are identified but do not demonstrate qualifications or experience relevant to the project.

(4) 15–19 will be awarded if (2) and (3) are met, plus most, but not all, key personnel demonstrate strong credentials and/or experience, and availability indicating a reasonable likelihood of success.

(5) 20–25 points will be awarded if (2)–(4) are met, plus all personnel demonstrate strong, relevant credentials or experience and availability indicating a high likelihood of project success.

(d) *Commitment (maximum of 10 points).* Three-page limit. A panel of USDA employees will evaluate the applicant's commitment to providing technical assistance to socially disadvantaged groups in rural areas. Applicants must list the number and location of socially disadvantaged groups that will directly benefit from the assistance provided. Applicants must define and describe the underserved and economically distressed areas within the applicant's service area and provide current and relevant statistics that support the applicant's description of the service area. Projects located in Persistent Poverty Counties as defined in the 2023 Appropriations Act, if included, will score higher on this factor.

(e) *Local support (maximum of 10 points).* Three-page limit. A panel of USDA employees will evaluate applications for local support of the technical assistance activities. Discussion on local support should include previous and/or expected local support and plans for coordinating with other developmental organizations in the proposed service area or with Tribal, State, and local government institutions. Applications that demonstrate strong support from potential beneficiaries and other developmental organizations will score higher. A maximum of 10 letters of support may be included with the application. Points will be awarded as follows:

(1) 0 points are awarded if the applicant does not adequately address this criterion.

(2) A range of 1–5 points are awarded if the applicant demonstrates support from potential beneficiaries and other developmental organizations in the discussion but does not provide letters of support.

(3) Additional 1 point is awarded if 2 to 3 support letters are provided and show support from potential beneficiaries and/or support from local organizations.

(4) Additional 2 points are awarded if 4 to 5 support letters are provided and show support from potential beneficiaries and/or support from local organizations.

(5) Additional 3 points are awarded if 6 to 7 support letters are provided and show support from potential beneficiaries and/or support from local organizations.

(6) Additional 4 points are awarded if 8 to 9 support letters are provided and show support from potential beneficiaries and/or support from local organizations.

(7) Additional 5 points are awarded if 10 support letters are provided and show support from potential beneficiaries and/or support from local organizations.

Support letters should be signed and dated after the publication date of this notice and should come from potential beneficiaries and other local organizations. Letters received from Congressional members or technical assistance providers will not be included in the count of support letters received. Additionally, identical form letters signed by multiple potential beneficiaries and/or local organizations will not be included in the count of support letters received. Support letters should be included as an attachment to the application in Appendix C and will not count against the maximum page total. Additional letters from industry groups, commodity groups, Congressional members, and similar organizations should be referenced but not included in the application package. When referencing these letters, provide the name of the organization, the date of the letter, the nature of the support, and the name and title of the person signing the letter.

(f) *Administrator Discretionary Points (maximum of 10 points).* The Administrator may choose to award points to applications where:

(1) The applicant has never received a SDGG award—5 points; or

(2) The applicant seeks to advance one or more key priorities addressed in the **SUPPLEMENTARY INFORMATION** section of the Notice—5 points. Data sources for the key priorities are found at: *https://www.rd.usda.gov/priority-points.*

2. *Federal Award Process.* Applications will be reviewed in the USDA RD State Offices to determine if they are eligible for assistance based on requirements in this notice, and other applicable Federal regulations. If determined eligible, applications will be scored by a panel of USDA employees in accordance with the point allocation specified in this notice. The review panel will convene to reach a consensus on the scores for each of the eligible applications. The Administrator may choose to award up to 10 Administrator priority points based on criteria (f) in Section E.1 of this notice. These points will be added to the cumulative score for a total possible score of 105. Applications will be funded from highest ranking order until the funding limitation has been reached. Applications that cannot be fully funded may be offered partial funding at the Agency's discretion. The Agency reserves the right to offer the applicant less than the grant funding requested. Applications that are ranked and not funded will not be carried forward into the next competition.

F. Federal Award Administration Information

1. *Federal Award Notices.* Applicants selected for funding will receive a signed notice of Federal award by postal or electronic mail, containing instructions on requirements necessary to proceed with execution and performance of the award.

Applicants not selected for funding will be notified in writing via postal or electronic mail and informed of any review and appeal rights. Funding of successfully appealed applications will be limited to available FY 2023 funding.

2. *Administrative and National Policy Requirements.* Additional requirements that apply to grantees selected for this program can be found in 2 CFR parts 200, 400, 415, 417, 418, and 421. All recipients of Federal financial assistance are required to report information about

first tier subawards and executive compensation in accordance with 2 CFR part 170, appendix A. Recipients will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act reporting requirements of 2 CFR 170.200(b), unless they are exempt under 2 CFR 170.110(b).

The following additional requirements apply to grantees selected for this program:

(a) Execution of an Agency approved Grant Agreement.

(b) Acceptance of a written Letter of Conditions.

(c) Submission of Form RD 1940–1, ''Request for Obligation of Funds.''

(d) Submission of Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

(e) Assurance Agreement. By signing the Financial Assistance General Certifications and Representations in SAM, grant recipients affirm that they will operate the program free from discrimination. The grant recipients will maintain the race and ethnic data on their board members and the beneficiaries of the program. The grant recipient will provide alternative forms of communication to persons with limited English proficiency. The Agency will conduct civil rights compliance reviews on grant recipients to identify the collection of racial and ethnic data on program beneficiaries. In addition, the compliance review will ensure that equal access to the program benefits and activities are provided for persons with disabilities and language barriers.

3. *Reporting.* After grant approval and through grant completion, applicants will be required to provide the following:

(a) An SF–425, ''Federal Financial Report,'' and a project performance report will be required on a semiannual basis (due 30 calendar days after the end of the semiannual period). The project performance reports shall include a comparison of actual accomplishments to the objectives established for that period;

(b) A statement providing reasons why established objectives were not met, if applicable;

(c) A statement providing reasons for any problems, delays, or adverse conditions, if any, which have affected or will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of objectives during established time periods, and a description of the action taken or planned to resolve the situation;

(d) Objectives and timetable established for the next reporting period;

(e) A final project and financial status report within 90 days after the expiration or termination of the grant in accordance with 2 CFR 200.344; and

(f) Outcome project performance reports and final deliverables.

G. Agency Contacts

For general questions about this notice and for program technical assistance, please see the contact information in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

H. Other Information

1. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection requirements associated with the programs, as covered in this notice, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0052.

2. *National Environmental Policy Act.* All recipients under this notice are subject to the requirements of 7 CFR part 1970. However, awards for technical assistance and training under this notice are classified as a Categorical Exclusion according to 7 CFR 1970.53(b), and usually do not require any additional documentation. RBCS will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist RBCS with this determination.

3. *Federal Funding Accountability and Transparency Act.* All applicants, in accordance with 2 CFR part 25, must be registered in SAM and have a UEI number as stated in Section D.3 of this notice. All recipients of Federal financial assistance are required to report information about first-tier subawards and executive total compensation in accordance with 2 CFR part 170.

4. *Civil Rights Compliance Requirements.* All grants made under this notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA in accordance with 7 CFR part 15, subpart A (eCFR :: 7 CFR part 15 Subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964) and Section 504 of the Rehabilitation Act of 1973, Title VIII of the Civil Rights Act of 1968, Title IX, Executive Order 13166 (Limited English Proficiency), Executive Order 11246, and the Equal Credit Opportunity Act of 1974.

5. *Nondiscrimination Statement.* In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the 711 Relay Service.

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

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

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

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

USDA is an equal opportunity provider, employer, and lender.

Karama Neal,

Administrator, Rural Business-Cooperative Service, Rural Development.

[FR Doc. 2023–05441 Filed 3–16–23; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Request for Duty-Free Entry of Scientific Instrument or Apparatus

AGENCY: Enforcement & Compliance, International Trade Administration, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before May 16, 2023.

ADDRESSES: Interested persons are invited to submit written comments by mail to Dianne Hanshaw, Statutory Import Program Assistant, Enforcement & Compliance, International Trade Administration, Room 3720, U.S. Department of Commerce, Washington, DC 20230; or by email to *Dianne.Hanshaw@trade.gov* or *PRAcomments@doc.gov*. Please reference OMB Control Number 0625–0037 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Dianne Hanshaw, Statutory Import Program Assistant, Enforcement & Compliance, International Trade Administration, Room 3720, U.S. Department of Commerce, Washington, DC 20230; by telephone at (202) 482–1661, or by email to *Dianne.Hanshaw@trade.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Departments of Commerce and Homeland Security (''DHS'') are required to determine whether nonprofit institutions established for scientific or educational purposes are entitled to duty-free entry for scientific instruments the institutions import under the Florence Agreement. Form ITA–338P enables: (1) DHS to determine whether the statutory eligibility requirements for the institution and the instrument are fulfilled, and (2) Commerce to make a comparison and finding as to the scientific equivalency of comparable instruments being manufactured in the United States. Without the collection of the information, DHS and Commerce would not have the necessary information to carry out the responsibilities of determining eligibility for duty-free entry assigned by law.

II. Method of Collection

A copy of Form ITA–338P is provided on and downloadable from a website at *http://enforcement.trade.gov/sips/sipsform/ita-338p.pdf* or the potential applicant may request a copy from the Department. The applicant completes the form and then forwards it via mail to DHS.

Upon acceptance by DHS as a valid application, the application is transmitted to Commerce for further processing.

III. Data

OMB Control Number: 0625–0037.
Form Number(s): ITA–338P.
Type of Review: Regular submission.
Affected Public: State or local government; Federal agencies; not for-profit institutions.
Estimated Number of Respondents: 65.
Estimated Time per Response: 2 hours.
Estimated Total Annual Burden Hours: 130.
Estimated Total Annual Cost to Public: $2,138.
Respondent's Obligation: Required to receive benefits.
Legal Authority: 19 U.S.C. 1202; 15 CFR 301.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

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

[FR Doc. 2023–05518 Filed 3–16–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC628]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Army Corps of Engineers Debris Dock Replacement Project, Sausalito, California

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has received a request from the U.S. Army Corps of Engineers (ACOE) for a second re-issuance of a previously issued incidental harassment authorization (IHA), with the only change being the effective dates. The IHA authorizes take of seven species of marine mammals, by Level A and Level B harassment, incidental to construction associated with the Debris Dock Replacement Project in Sausalito, California. The ACOE has requested re-issuance with new effective dates of January 1, 2024 through December 31, 2024. The scope of the activities and anticipated effects remain the same, authorized take numbers are not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. NMFS is, therefore, issuing an identical IHA to cover the incidental take analyzed and authorized in the initial IHA.

DATES: This authorization is effective from January 1, 2024 through December 31, 2024.

ADDRESSES: An electronic copy of the final 2021 IHA previously issued to the ACOE, the ACOE's application, and the **Federal Register** notices proposing and issuing the initial IHA may be obtained by visiting */www.fisheries.noaa.gov/action/incidental-take-authorization-army-corps-engineers-debris-dock-replacement-project-sausalito.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Jessica Taylor, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (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 issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 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.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, 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).

Summary of Request

On July 14, 2021, NMFS published final notice of our issuance of an IHA authorizing take of marine mammals incidental to the Debris Dock Replacement project (86 FR 37124). The effective dates of that IHA were September 1, 2021, through August 31, 2022. On December 14, 2021, the ACOE informed NMFS that the project was delayed. None of the work identified in the initial IHA application (*e.g.,* pile driving and removal) had occurred. The ACOE submitted a request that we reissue an identical IHA that would be effective from January 5, 2022 through January 4, 2023, in order to conduct the construction work that was analyzed in support of the previously issued IHA. An identical IHA was reissued on December 27, 2021 (86 FR 73261). However, the project remains delayed and no work has been conducted. On December 6, 2022, the ACOE informed NMFS that, due to a project delay, none of the work identified in the original IHA (*e.g.,* pile driving and removal) has been conducted. The ACOE has, therefore, submitted a request that we reissue another IHA identical to the IHA issued July 14, 2021. As the project activities, anticipated effects, and required mitigation, monitoring, and reporting remain the same, re-issuance of the IHA is appropriate.

Summary of Specified Activity and Anticipated Impacts

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed and authorized through the previously issued IHA.

The purpose of the ACOE's construction project is to replace the existing decaying dock and other onshore infrastructure used to move marine debris collected from San Francisco Bay onto land for disposal. The location, timing, and nature of the activities, including the types of equipment planned for use, are identical to those described in the initial IHA. The mitigation and monitoring are also as prescribed in the initial IHA.

Species that are expected to be taken by the planned activity include harbor porpoise (*Phocoena phocoena*), harbor seal (*Phoca vitulina*), gray whale (*Eschrichtius robustus*), bottlenose dolphin (*Tursiops truncatus*), California sea lion (*Zalophus californianus*), northern fur seal (*Callorhinus ursinus*), and northern elephant seal (*Mirounga angustirostris*). A description of the methods and inputs used to estimate take anticipated to occur and, ultimately, the take that was authorized is found in the previous documents referenced above. The data inputs and methods of estimating take are identical to those used in the initial IHA. NMFS has reviewed recent Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that no new information affects our original analysis of impacts or take estimate under the initial IHA.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial 2021 IHA for the ACOE's construction work (86 FR 37124), the ACOE's application, the **Federal Register** notice of the proposed IHA (86 FR 28768), and all associated references and documents.

Determinations

The ACOE will conduct activities as analyzed in support of the initial 2021 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet the negligible impact and small numbers standards and authorized under the initial IHA and no new information has emerged that would change those findings. The re-issued 2024 IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) the ACOE's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

National Environmental Policy Act

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations with no anticipated

serious injury or mortality) of the Companion Manual for NOAA Administrative Order 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 determined that the issuance of the initial IHA qualified to be categorically excluded from further NEPA review. NMFS has determined that the application of this categorical exclusion remains appropriate for this reissued IHA.

Endangered Species Act (ESA)

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.

However, no incidental take of ESA-listed species is authorized 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.

Authorization

NMFS has issued an IHA to the ACOE for in-water construction activities associated with the specified activity from January 1, 2024 through December 31, 2024. All previously described mitigation, monitoring, and reporting requirements from the initial 2021 IHA are incorporated.

Dated: March 14, 2023.

Catherine Marzin,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–05483 Filed 3–16–23; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to the Procurement List:* April 16, 2023.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 1/27/2023, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service(s) to the Government.

2. The action will result in authorizing small entities to furnish the service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service(s) are added to the Procurement List:

Service(s)

Service Type: Contractor Operated Civil Engineer Supply Store
Mandatory for: Malmstrom Air Force Base, Malmstrom AFB, MT
Designated Source of Supply: South Texas Lighthouse for the Blind, Corpus Christi, TX
Contracting Activity: DEPT OF THE AIR FORCE, FA4626 341 CONS LGC

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–05500 Filed 3–16–23; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add product(s) and service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete product(s) and service(s) previously furnished by such agencies.

DATES: Comments must be received on or before: April 16, 2023.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product(s) and service(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following product(s) and service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s):
8520–01–490–7358—Instant Hand Sanitizer, Gel, Portable Flip Cap Bottle, 4oz

8520–01–490–7370—Soap, Antibacterial, Pump Bottle, 12oz
Designated Source of Supply: Travis Association for the Blind, Austin, TX
Contracting Activity: FEDERAL ACQUISITION SERVICE, GSA/FSS GREATER SOUTHWEST ACQUISITI
Distribution: B-List
Mandatory for: Broad Government Requirement

Service(s)

Service Type: Custodial Service
Mandatory for: NASA, NASA Langley Research Center, Hampton, VA
Designated Source of Supply: Brevard Achievement Center, Inc., Rockledge, FL
Contracting Activity: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, NASA LANGLEY RESEARCH CENTER

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 2540–00–473–0111—Kit, Deep Water Fording
Designated Source of Supply: The Opportunity Center Easter Seal Facility—The Ala ES Soc, Inc., Anniston, AL
Contracting Activity: DLA LAND AND MARITIME, COLUMBUS, OH
NSN(s)—Product Name(s): 7520–01–484–5256—Pen, Ball Point, Retractable, Ergonomic, MD Ergo Grip, Blue Barrel, Blue Ink, Medium Point
Designated Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY
NSN(s)—Product Name(s): 8115–01–499–0898—Shipping Box, Type II, Style D, Brown, XD–4, 6″ x 9″ x 4½″
Designated Source of Supply: Tarrant County Association for the Blind, Fort Worth, TX
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY
NSN(s)—Product Name(s): 8955–01–E60–8859—Coffee, Roasted, Ground, 39 oz. bag, S&D
Designated Source of Supply: CW Resources, Inc., New Britain, CT
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

Service(s)

Service Type: Custodial and Related Services
Mandatory for: GSA PBS Region 8, Missoula Federal Building, 200 East Broadway, Missoula, MT
Designated Source of Supply: Opportunity Resources, Inc., Missoula, MT
Contracting Activity: PUBLIC BUILDINGS SERVICE, PBS R8

Service Type: Document Destruction Service
Mandatory for: Social Security ODAR, Falls Church, VA (offsite: 9104 Red Branch Road, Columbia, MD), One Skyline Tower, 5107 Leesburg Pike, Falls Church, VA
Contracting Activity: SOCIAL SECURITY ADMINISTRATION, SOCIAL SECURITY ADMINISTRATION

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–05499 Filed 3–16–23; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Quarterly Public Meeting

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice of public meeting.

DATES: April 13, 2023, from 1 p.m. to 4 p.m., ET.

ADDRESSES: The meeting will be held virtually only via Zoom webinar.

FOR FURTHER INFORMATION CONTACT: Angela Phifer, 355 E Street SW, Suite 325, Washington, DC 20024; (703) 798–5873, or *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Committee for Purchase From People Who Are Blind or Severely Disabled is an independent government agency operating as the U.S. AbilityOne Commission. It oversees the AbilityOne Program, which provides employment opportunities through Federal contracts for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government. The Javits-Wagner-O'Day Act (41 U.S.C. chapter 85) authorizes the contracts.

Registration: Attendees *not* requesting speaking time must register not later than 11:59 p.m. ET on April 12, 2023. Attendees requesting speaking time should register not later than 11:59 p.m. ET on April 3, 2023, and use the comment fields in the registration form to specify the intended speaking topic/s. The registration link is posted on the Commission's home page, *www.abilityone.gov.*

Commission Statement: This regular quarterly meeting will include updates from the Commission Chairperson, Executive Director, and Inspector General. A panel of nonprofit, for-profit, and government leaders will discuss subcontracting by and with AbilityOne Program participants. The panel will discuss how such subcontracts can facilitate workplace integration and pathways to employment outside the AbilityOne Program.

Public Participation: The Commission invites public comments and suggestions about subcontracting and other partnerships with industry by or with AbilityOne employers. During registration, you may choose to submit comments, or you may request speaking time at the meeting. The Commission may invite some attendees who submit advance comments to discuss their comments during the meeting. Comments submitted will be reviewed by staff and the Commission members before the meeting. Comments posted in the chat box during the meeting will be shared with the Commission members after the meeting. The Commission is not subject to the requirements of 5 U.S.C. 552(b); however, the Commission published this notice to encourage the broadest possible participation in its meeting.

Personal Information: Do not include any information that you do not want publicly disclosed.

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–05495 Filed 3–16–23; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 88 FR 15991, March 15, 2023.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1:00 p.m. EDT, Tuesday, March 21, 2023.

CHANGES IN THE MEETING: The time of the meeting has changed. This meeting will now start at 12:30 p.m. EDT. The meeting date, place, Closed status, and matters to be considered, as previously announced, remain unchanged.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: March 15, 2023.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2023–05616 Filed 3–15–23; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before April 17, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at *https://www.reginfo.gov/public/do/PRAMain.* Please find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the website's search function. Comments can be entered electronically by clicking on the ''comment'' button next to the information collection on the ''OIRA Information Collections Under Review'' page, or the ''View ICR—Agency Submission'' page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *https://www.reginfo.gov/public/do/PRAMain.*

In addition to the submission of comments to *https://Reginfo.gov* as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') by clicking on the ''Submit Comment'' box next to the descriptive entry for OMB Control No. 3038–0023, at *https://comments.cftc.gov/FederalRegister/PublicInfo.aspx.*

Or by either of the following methods:

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Dan Rutherford, Associate Director, Office of Public Affairs, Office of Customer Education and Outreach, Commodity Futures Trading Commission, (202) 418–6552; email: *drutherford@cftc.gov,* and refer to OMB Control No. 3038–0107.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback for Agency Service Delivery (OMB Control No. 3038–0107). This is a request for an extension of a currently approved information collection.

Abstract: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, the Commodity Futures Trading Commission's Office of Customer Education and Outreach (OCEO) seeks to obtain OMB approval of a generic clearance to collect qualitative and quantitative feedback. By feedback we mean information that provides useful insights on perceptions and opinions, but are not statistically significant surveys that yield results that can be generalized to the population of study.

This collection of information is necessary to enable the OCEO to garner customer and stakeholder feedback in an efficient and timely manner in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with OCEO programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the OCEO and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

On December 27, 2022, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 87 FR 79286 (60-Day Notice) The Commission did not receive any relevant comments on the 60-Day Notice.

Burden Statement: This is a renewal request for a previous generic approval. No changes in requirements are anticipated. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents Annually: 17,279.

Estimated Average Burden Hours per Respondent: 0.29 hours or approximately 17 minutes.

Estimated Total Annual Burden Hours: 4,000 hours (rounded).

Frequency of Collection: Once per request.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: March 14, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–05473 Filed 3–16–23; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; External Reviewer Application Instructions

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled External Reviewer Application Instructions. for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by April 17, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling AmeriCorps, Danielle Horetsky, at 202–606–3863 or by email to *dhoretsky@cns.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose 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

A 60-day Notice requesting public comment was published in the **Federal Register** on December 27, 2022 at 87 FR 79288. This comment period ended February 27, 2023. AmeriCorps did not receive any comments in connection with the 60-day Notice.

Title of Collection: External Reviewer Application Instructions.

OMB Control Number: 3045–0090.

Type of Review: Reinstatement.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 500 Respondents.

Total Estimated Number of Annual Burden Hours: 375.

Abstract: The External Reviewer Application is used by individuals who wish to serve as External Reviewers for AmeriCorps when external reviewers are needed to review grant applications and corresponding forms to confirm participation and conflict of interest requirements. The information collected will be used by AmeriCorps to select review participants for each grant competition. The information is collected electronically using AmeriCorps' web-based system and via email. AmeriCorps seeks to reinstate the recently discontinued information collection with revisions that add two new forms designed to outline the participant agreement and certify that there is no conflict of interest when reviewers are confirmed as reviewers. The revisions are intended to improve data quality, collection, and utilization of data. The information collection will otherwise be used in the same manner as the previously approved and recently discontinued information collection, which expired on February 28, 2023.

Melissa Allen,

Acting Chief Program Officer.

[FR Doc. 2023–05487 Filed 3–16–23; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Tampa Harbor Navigation Improvement Study, Hillsborough County, Florida

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

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement for a General Reevaluation Report of navigation improvements at Port Tampa, Hillsborough County, FL.

SUMMARY: Pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations, the U.S. Army Corps of Engineers (USACE), Jacksonville District, announces its intent to prepare an Integrated General Reevaluation Report and Environmental Impact Statement (EIS) to examine navigation improvements to the existing Tampa Harbor Federal Navigation Project. The purpose of the study is to determine the need and feasibility of deepening and/or widening the current Tampa Harbor federal navigation channel to improve vessel capacity, efficiency, and safety. Comments are being sought regarding identification of potential alternatives, information, and analysis relevant to the study for improving navigation, beneficial use of dredge material, and analyses to support evaluation of effects on the human environment and will be accepted at any time during the EIS process.

DATES: Written comments and suggestions must be submitted by May 16, 2023.

ADDRESSES: To ensure the USACE has sufficient time to consider public input in the preparation of the Draft EIS, scoping comments should be submitted to Mr. Michael Ornella II by email at *tampaharborfl@usace.army.mil;* or by surface mail to U.S. Army Corps of Engineers, Planning and Policy Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL 32232–0019.

FOR FURTHER INFORMATION CONTACT: Michael Ornella II, at 904–232–1498 or *tampaharborfl@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

Background: USACE participation in this study is authorized by Section 3052 of the Water Resources Development Act of 2007. The non-Federal sponsor for the study is Port Tampa Bay. The study was initiated at the request of Port Tampa Bay. The study is being cost-shared 65-percent Federal and 35-percent non-Federal with Port Tampa Bay.

Proposed Action: This study will consider navigation improvements including deepening and/or widening the federal navigation project. The main stem of Tampa Harbor is currently authorized at −43 feet Mean Lower Low Water (MLLW). Big Bend and Cut D (Hillsborough Bay) channels are authorized at −41 feet MLLW, and the upper channels are authorized at −34 feet MLLW. The channel varies in width from 500 feet in the main stem to 300 feet in the upper channels, with some channel cuts limited to 200 or 250 feet.

Alternatives: The study will identify, evaluate, and recommend to decision makers an appropriate, coordinated, and workable solution to the navigation inefficiencies at Tampa Harbor. Alternatives will include no action, and alternatives that include one or more of the following measures: incremental deepening and the resulting widening from 44 feet to 54 feet, incremental passing lanes up to 300 feet in width at Cut B and Gadsden Cut, adjustments to improve maneuverability in turning basins, widening and extension of Big Bend Channel, and channel intersection and widener improvements throughout the harbor. The study will evaluate numerous dredged material placement alternatives including beneficial use, open water placement, and upland placement. Dredged material that is sandy is expected to be suitable for placement on Egmont Key or other

beneficial use sites identified in Tampa Harbor. Rocky material is likely to be utilized for hardbottom creation and expansion of existing artificial reefs next to the channel. Additional beneficial use options are being determined and analyzed for other dredge material types and include island creation/enhancement at Alafia Bank Sanctuary, MacDill Air Force Base shoreline enhancement, and beach nourishment on Ft. Desoto Beach.

Significant Issues: Impacts are expected to be short-term and temporary in nature, including short-term disturbance to hardbottom and creation of new hardbottom habitat adjacent to the channel edge, short-term turbidity at the dredge and placement sites, temporary noise impacts to fish and wildlife resources, impacts to swimming sea turtles during dredging operations, impacts to nesting sea turtles during material placement and long-term benefits from beach nourishment, and disruption of recreation and navigation during dredging and placement activities.

However, due to the volume of material expected to be dredged—up to 40 million cubic yards—and the likely beneficial use of a majority of that material, possibly to restore Egmont Key, an EIS is being proposed.

Public Involvement and Scoping: A scoping letter was sent November 1, 2021, to invite comments from Federal, State, and local agencies, affected Indian tribes, and other interested private organizations and individuals. USACE hosted two (2) virtual NEPA scoping meetings on November 18, 2021. USACE received comments from agencies, organizations, and individuals in favor of the project and requesting additional information on concerns over the impacts to property, flood hazards, and wildlife. USACE addressed the comments, both at the meeting and in email. Due to the scale of effects, the USACE is inviting additional comments with this Notice of Intent.

Environmental Review and Consultation Requirements: The proposed project is subject to review pursuant to (but not limited to) the Coastal Zone Management Act, Endangered Species Act, Fish and Wildlife Coordination Act, Magnuson-Stevens Fishery Conservation and Management Act, Marine Mammal Protection Act, Clean Water Act, Marine Protection, Research, and Sanctuaries Act, National Historic Preservation Act, and NEPA.

Project Schedule: The Draft Integrated General Reevaluation Report and Environmental Impact Statement is expected to be available for public review in July of 2023. A 45-day public review period will be provided for interested parties and agencies to review and comment on this draft document. All interested parties are encouraged to respond to this notice and provide a current address if they wish to be notified of the Draft EIS circulation. A Record of Decision would be approved and signed no earlier than 30 days after the Final EIS.

Daniel H. Hibner,

Brigadier General, U.S. Army, Commanding.

[FR Doc. 2023–05480 Filed 3–16–23; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Proposed East Tailings Expansion Project (Project), Near Magna, Salt Lake County, Utah

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

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Sacramento District (USACE), intends to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for the proposed Project. The Project is proposed due to the planned expansion of the Bingham Canyon Mine (Mine), a commercial open pit copper mining operation near Magna, Salt Lake County, Utah. Kennecott Utah Copper LLC (Applicant) has applied for a Department of the Army (DA) permit for discharges of dredged or fill materials into 44.86 acres of waters of United States, including wetlands, to construct the Project. This notice opens the public scoping phase and invites interested parties to identify issues and reasonable alternatives to the proposed action that should be considered in the EIS.

DATES: Written comments for consideration in the development of the scope of the NEPA EIS are due to the addresses below no later than April 17, 2023.

ADDRESSES: Please send written comments to Nicole Fresard, U.S. Army Corps of Engineers, Sacramento District, Bountiful Regulatory Field Office, 533 West 2600 South, Suite 150, Bountiful, Utah 84010; email at *Nicole.D.Fresard@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS can be answered by Nicole Fresard, (801) 295–8380 extension 8321; email: *Nicole.D.Fresard@usace.army.mil.* Please refer to identification number SPK–2009–01213–UO.

SUPPLEMENTARY INFORMATION: The Applicant has applied for a DA permit under Section 404 of the Clean Water Act to construct the East Tailings Expansion with related infrastructure and to buttress the east slope of the historic South Tailings Impoundment.

The Applicant is developing an updated mine plan for the Bingham Canyon Mine that would extend the open pit life of mine to approximately year 2038 and would generate an additional 1.2 to 1.7 million tons (Mt) of copper equivalent product. To fully implement the updated mine plan, the Applicant has stated that it needs to expand the eastern portion of the historic south impoundment to provide an additional 100 Mt of tailings storage that cannot be met using existing storage capacity. In addition, studies have shown that the east slope of the historic South Tailings Impoundment is potentially susceptible to earthquake-induced tailing flows resulting from impoundment failure. The Project would buttress the east slope of the historic South Tailings Impoundment to improve seismic stability and reduce the risk of runout caused by a seismic event to a level as low as reasonably practicable.

The Project purpose is to increase tailings storage capacity for continued mining operations at the Bingham Canyon mine until approximately 2038 and to improve seismic stability of the east slope of the historic South Tailings Impoundment.

The project is located approximately ten miles west of Salt Lake City near the community of Magna, Utah. The additional infrastructure would include: new access roads; a new drainage system including finger drains; relocation of the clarification canal; a new 50-foot electrical corridor; relocation of Outfall 002 (which discharges to the C–7 ditches); installation of tailings and water piping, pumps, and valve stations required to operate the Project; and a dust control system. Construction of the Project infrastructure is planned to begin in 2024 and extend through 2026.

The project would impact approximately 539 acres, including 327 acres within the footprint of the existing South Tailings Impoundment, 39 acres of the existing clarification canal and the closed sedimentation pond (industrial process waters), and 173

acres on land without previous tailings deposition. In an approved jurisdictional determination and a preliminary jurisdictional determination dated May 2022, USACE reviewed a 351-acre survey area within and adjacent to the Project along the southeast boundary of the existing tailings impoundment and determined that 38.78 acres are industrial process waters, and 9.85 acres are artificial wetlands not subject to regulation under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. In addition, USACE determined that 54.93 acres of aquatic resources are potentially subject to Section 404 of the Clean Water Act. The project proposes to impact 44.86 acres of these potentially jurisdictional aquatic resources, including wetlands.

USACE anticipates that the draft EIS will be made available for public comments in November 2023. At that time, a minimum 45-day public review period will be provided for individuals and agencies to review and comment on the Draft EIS. USACE anticipates the Final EIS will be published in July 2024. At that time, a minimum 30-day public review period will be provided for individuals and agencies to review and comment on the Final EIS. A Record of Decision is anticipated in September 2024.

Alternatives. The EIS will include an evaluation of a reasonable range of alternatives. Currently, the following alternatives are expected to be analyzed in detail: (1) The no action alternative (no permit issued) and (2) the Proposed Action (Project). The no action alternative assumes that the Applicant would continue to operate the mine in its existing footprint; no changes to existing infrastructure would occur, with all potential waters of the U.S. avoided. In addition to the Proposed Action, USACE anticipates evaluating additional on-site and off-site alternatives for potential detailed analysis. As part of this notice, USACE requests comments on any additional on-site and off-site alternatives, information, and analyses relevant to the proposed action. All reasonable alternatives to the proposed federal action that meet the purpose and need will be considered in the Draft EIS.

Scoping. The USACE scoping process for the EIS includes a public involvement program with several opportunities to provide oral and written comments. In addition to public meetings and notifications in the **Federal Register**, USACE will issue public notices when the draft and final EIS are available.

Affected federal, state, and local agencies, Native American tribes, and other interested private organizations and parties are invited to participate. Potentially significant issues to be analyzed in the EIS include, but are not limited to impacts to waters, hydrology, water supply, water quality, cultural resources, biological resources, traffic and transportation, and air quality.

The USACE is the lead federal agency for preparation of the EIS under the requirements of NEPA. USACE has invited the following Tribes and federal and state agencies to participate as cooperating agencies for the EIS: Ute Indian Tribe of The Uintah & Ouray Reservation, Utah, Northwestern Band of the Shoshone Nation, Skull Valley Band of Goshute Indians of Utah, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Utah Department of Natural Resources, and Utah Department of Environmental Quality.

Other environmental review and consultation requirements for the proposed action include the need for the Applicant to obtain water quality certification under Section 401 of the Clean Water Act from the Utah Division of Water Quality. The proposed project will not affect any federally listed threatened or endangered species; however, it may affect state-listed special status species. USACE will consult with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act concerning properties listed, or potentially eligible for listing, on the National Register of Historic Places.

Interested parties may register for the USACE public notice email notification lists at: *https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Request-for-Public-Notice-Notification/*.

Public Scoping Meetings. USACE will hold in-person public scoping meetings in Magna, Utah at the Webster Community Center, 8952 West Magna Main Street, from 6 to 8 p.m. MT on April 4, 2023, and in Kearns, Utah at the Element Event Center, 5624 South Cougar Lane, Kearns, Utah 84118 from 6 to 8 p.m. MT on April 5, 2023. Interested parties can provide oral and written comments at the meetings. Interested parties may also submit written comments on this notice. Scoping comments may be submitted at any time prior to publication of the Draft EIS, which is anticipated in November 2023.

Antoinette R. Gant,

Brigadier General, USA, Commanding.

[FR Doc. 2023–05501 Filed 3–16–23; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Fund for the Improvement of Postsecondary Education—Open Textbooks Pilot Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2023 for the Open Textbooks Pilot program conducted under the Fund for the Improvement of Postsecondary Education (FIPSE), Assistance Listing Number (ALN) 84.116T. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: March 17, 2023.

Deadline for Transmittal of Applications: May 16, 2023.

Deadline for Intergovernmental Review: July 17, 2023.

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*. Please note that these Common Instructions supersede the version published on December 27, 2021.

FOR FURTHER INFORMATION CONTACT: Kurrinn Abrams, U.S. Department of Education, 400 Maryland Avenue SW, 2nd Floor, Washington, DC 20202. Telephone: (202) 987–1920. Email: *kurrinn.abrams2@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 Open Textbooks Pilot program supports projects at eligible institutions of higher education (IHEs) or State higher

education agencies that create new open textbooks (as defined in this notice) and expand the use of open textbooks and course materials in courses that are part of a degree-granting program, particularly those with high enrollments. Applicants are encouraged to develop projects that demonstrate the greatest potential to achieve the highest level of savings for students through sustainable, expanded use of open educational resources in high-enrollment courses (as defined in this notice) or in programs that prepare individuals for in-demand fields.

Background: The cost of attending college has steadily increased over the last 10 years, driven in part by the increased cost of college textbooks. College textbook costs increased 41 percent between 2011 and 2018.[1] Although they decreased slightly between 2019 and 2021, the cost of college textbooks was still 36 percent higher in 2021 than in 2011.[2]

Increasing textbook costs introduce an additional barrier to college access and completion, particularly for low-income students. This barrier was exacerbated during the COVID–19 pandemic (pandemic), as many students suffered a financial disruption. Research shows that 40 percent of undergraduate students experienced a financial disruption due to the pandemic.[3] Those students who experienced a financial disruption experienced several challenges, such as a lack of financial aid, housing disruption, lack of access to safe, stable child care, difficulty paying for or accessing food, or a loss of job or income.[4] Those students who experienced a financial disruption also experienced a disruption in their enrollment status at their institution. Recent data points to 87.5 percent of students who experienced a disruption or change in their enrollment during the pandemic, with 84.1 percent of students having their classes moved to online-only formats. Of those students who experienced a disruption in enrollment, many either withdrew from college entirely (4.4 percent) or took a leave of absence from their institution (3.8 percent).[5]

In recent years, the development of open textbooks and other open educational resources has emerged as a potential solution to help students overcome financial barriers to accessing higher education, and thereby additionally support retention and completion. In fact, in a study conducted by the Open Textbook Alliance, switching from commercial textbooks to open educational resources nationwide in the 10 introductory core-curriculum courses surveyed in the study, would collectively save students an estimated $1.5 billion per year on course materials.[6] As students are able to return to college post-pandemic, open textbooks and open educational resources can further provide students the opportunity to reallocate financial aid money to other important educational resources and necessary costs of attending college.[7]

In addition to the cost-saving benefits of open resources, there are additional benefits for students and faculty. Open textbooks and open educational resources increase equity because institutions are able to freely distribute these resources and provide students access to high-quality, up-to-date, and relevant content and materials. Furthermore, access to open resources can empower faculty to customize learning materials to better meet the needs of their students.[8] This is even more beneficial in a post-pandemic environment, as many classes continue to operate in a hybrid environment or remotely. Open textbooks and open educational resources can support faculty's ability to create new and innovative learning practices and utilize various collaboration technologies, in order to create an inclusive, yet personalized, and engaging learning experience.[9]

Post-pandemic, higher education looks different, and as many institutions begin to rethink the higher education experience, both inside and outside the classroom, it is important for institutions to look at best practices for improving retention and completion, such as through supplementing or expanding evidence-based and data-driven activities. While open textbooks often are available for general education or introductory courses, the Department seeks to promote retention and degree completion by supporting the development of open textbooks at all levels within an academic program. This program, therefore, emphasizes expanding the use of existing open textbooks in general education or introductory courses, as well as developing open textbooks for several required courses in one or more high-enrollment majors to ensure that students will benefit from cost savings throughout their programs.

Priorities: These priorities are from the Notice of Final Priorities, Requirements, and Definitions (NFP) for this program published in the **Federal Register** on September 15, 2020 (85 FR 57138).

Absolute Priorities: For FY 2023, 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—Improving Collaboration and Dissemination.

To meet this priority, an eligible applicant must propose to lead and carry out projects that involve a consortia of institutions, instructors, and subject matter experts, including no less than three IHEs, along with relevant employers, workforce stakeholders (as defined in this notice), and/or trade or professional associations (as defined in this notice). Applicants must explain how the members of the consortium will work together to develop and implement open textbooks that: (a) reduce the cost of college for large numbers of students through a variety of cost saving measures; and (b) contain instructional content and ancillary instructional materials that align student learning objectives with the skills or knowledge required by large numbers of students (at a given institution or nationally), or in the case of a career and technical postsecondary program, meet industry standards in in-demand industry sectors or in-demand occupations (as defined in this notice).

Absolute Priority 2—Addressing Gaps in the Open Textbook Marketplace and Bringing Solutions to Scale.

To meet this priority, an applicant must identify the gaps in the open textbook marketplace in courses that are part of a degree-granting program that it seeks to address and propose how to close such gaps. An applicant must

[1] Bureau of Labor Statistics, U.S. Dept. of Labor, *The Economics Daily,* ''Cost of college tuition has remained stable since September 2019'' (Aug. 31, 2021), available at *https://www.bls.gov/opub/ted/2021/cost-of-college-tuition-has-remained-stable-since-september-2019.htm.*

[2] Ibid.

[3] U.S. Department of Education, National Center for Education Statistics, ''2019–20 National Postsecondary Student Aid Study (NPSAS:20)'' (June 2021), available at *https://nces.ed.gov/pubs2021/2021456_Summary.pdf.*

[4] Ibid.

[5] Ibid.

[6] Student Public Interest Research Groups, ''Open 101: An Action Plan for Affordable Textbooks'' (Jan. 25, 2018), available at *https://studentpirgs.org/2018/01/25/open-101-action-plan-affordable-textbooks/.*

[7] U.S. Department of Education, Office of Educational Technology, ''Open Education: Why Use Openly Licensed Educational Resources?'', available at *https://tech.ed.gov/open/.*

[8] Ibid.

[9] EDUCAUSE Review, ''Reimagining Higher Education: The Post-Covid Classroom'', (April 6, 2021), Available at *https://er.educause.edu/articles/2021/4/reimagining-higher-education-the-post-covid-classroom.*

propose a comprehensive plan to: (a) identify and assess existing open educational resources in the proposed subject area before creating new ones, such as by identifying any existing open textbooks that could potentially be used as models for the design of the project or ancillary learning resources that would support the development of courses that use open textbooks; (b) focus on the creation and expansion of education and training materials that can be scaled, within and beyond the participating consortium members, to reach a broad range of students participating in high-enrollment courses or preparing for in-demand industry sectors or in-demand occupations; (c) create and disseminate protocols to review any open textbooks created or adapted through the project for accuracy, rigor, and accessibility for students with disabilities; (d) disseminate information about the results of the project to other IHEs, including promoting the adoption of any open textbooks created or adapted through the project, or adopting open standard protocols and processes that support the interoperability for any digital assets created; (e) include professional development to build capacity of faculty, instructors, and other staff to adapt and use open textbooks; and (f) describe the courses for which open textbooks and ancillary materials are being developed.

Absolute Priority 3—Promoting Student Success.

To meet this priority, an applicant must propose to build upon existing open textbook materials and/or develop new open textbooks for high-enrollment courses or high-enrollment programs in order to achieve the highest level of savings for students.

Additionally, this priority requires the applicant to include plans for: (a) promoting and tracking the use of open textbooks in postsecondary courses across participating members of the consortium, including an estimate of the projected direct cost savings for students which will be reported during the annual performance review; (b) monitoring the impact of open textbooks on instruction, learning outcomes, course outcomes, and educational costs; (c) investigating and disseminating evidence-based practices associated with using open textbooks that improve student outcomes; and (d) updating the open textbooks beyond the funded period.

Competitive Preference Priority: For FY 2023, and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 5 points to an application, depending on how well the application meets this priority.

This priority is:

Using Technology-Based Strategies for Personalized Learning and Continuous Improvement (up to 5 points).

To meet this priority, an applicant must propose a project that focuses on improving instruction and student learning outcomes by integrating technology-based strategies, such as personalized learning, and providing support to faculty, instructors, and other staff who are delivering courses using these techniques. The project must enable students to tailor and monitor their own learning and/or allow instructors to monitor the individual performance of each student in the classes or courses for which the applicant proposes to develop open textbooks. In addition, online and technology-enabled content and courses developed under this project must incorporate the principles of universal design in order to ensure that they are readily accessible by all students, including students with disabilities. The openly licensed resources that are developed should support traditional, text-based materials, including through such tools as adaptive learning modules, digital simulations, and tools to assist student engagement.

Invitational Priority: For FY 2023, and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Participation by Minority-Serving Institutions and Community Colleges.

An application from a Minority-Serving Institution (MSI) (as defined in this notice) or community college (as defined in this notice) that leads the activities of the consortium and serves as the fiscal agent; or an application from a consortium in which an MSI or community college is a member of the consortium but not the lead applicant.

For the purpose of this priority, the definition of ''minority-serving institution'' is from the Supplemental Priorities and section 437(d)(1) of the General Education Provisions Act (GEPA). The definition of ''community college'' is from section 312(f) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1058(f)). These definitions apply to this competition for FY 2023 and any subsequent year in which we make awards from the list of unfunded applicants from this competition.

Community college means an institution that meets the definition in section 312(f) of the Higher Education Act (HEA) (20 U.S.C. 1058(f)).

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.

Note: The list of institutions currently designated as eligible under title III and title V is available at: *www2.ed.gov/about/offices/list/ope/idues/eligibility.html#el-inst.*

Requirements: These requirements are from the NFP and apply to this competition for FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition.

Accessibility: All digital content developed under this grant program must incorporate the principles of universal design (*https://udlguidelines.cast.org/*) to ensure that they are accessible to individuals with disabilities. The content and courses must be in full compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, as amended, and the Web Content Accessibility Guidelines 2.1, Level AA (*www.w3.org/TR/WCAG/*).

Technical Standards for Interoperability: All digital assets developed under this grant program must be produced to maximize interoperability, exchange, and reuse and must conform to industry-recognized open standards and specifications. Applicants must identify the industry standard they will use. All digital assets created in whole or in part under this grant program must be licensed for free, attributed public use and distribution as required under 2 CFR 3474.20.

Definitions: The following definitions are from the NFP and apply to this competition for FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition.

High-enrollment courses means courses that are required for a degree-granting program offered by an eligible IHE that either have total student enrollments within the top third of courses: (a) at the lead institution, if applicable, or at one or more of the consortia partner institutions; (b) in the State; or (c) nationally as compared to other academic or career and technical education courses.

High-enrollment program means a program that yields a postsecondary degree that either has total student enrollments within the top third of programs: (a) at the lead institution, if applicable, or at one or more of the consortia partner institutions; (b) in the State; or (c) nationally as compared to other academic or career and technical education programs.

In-demand industry sector means an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

In-demand occupation means an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate.

Open textbook means a textbook that is licensed under a worldwide, nonexclusive, royalty-free, perpetual, and irrevocable license to the public to exercise any of the rights under copyright conditioned only on the requirement that attribution be given as directed by the copyright owner. An open textbook may also include a variety of open educational resources or materials used by instructors in the development of a course and those learning activities necessary for successful completion of a course by students. These include any learning exercises, technology-enabled experiences (*e.g.,* simulations), and adaptive support and assessment tools.

Sector partner means a member of a workforce collaborative, convened by or acting in partnership with a State board or local board, that organizes key stakeholders interconnected by labor markets, technologies, and worker skill needs into a working group that focuses on shared goals and resource needs.

Trade or professional association means a membership organization that inspects employers or practitioners, or leads credentialing programs, in a specific industry or sector.

Workforce stakeholder means an individual or organization with an interest in the employability of others either for self-interest or the interest of other employers.

Authorized Activities: As outlined in House Report 117–403 accompanying the 2023 Consolidated Appropriations Act, allowable uses of funds include professional development for faculty and staff, including relating to the search for and review of open textbooks; the creation or adaptation of open textbooks; development or improvement of tools and informational resources that support the use of open textbooks, including accessible instructional materials for students with disabilities; and research evaluating the efficacy of the use of open textbooks for achieving savings for students and the impact on instruction and student learning outcomes.

Program Authority: 20 U.S.C. 1138–1138d; the Explanatory Statement accompanying Division H of the Consolidated Appropriations Act, 2023 (Pub. L. 117–328).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in 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 Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The NFP. (e) The Supplemental Priorities.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $10,626,704.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications for this competition.

Estimated Range of Awards: $1,773,000–$2,125,000.

Estimated Average Size of Awards: $2,125,000.

Maximum Award: We will not make an award exceeding $2,125,000 for the entire project period of 36 months.

Estimated Number of Awards: 5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Eligible applicants are IHEs as defined in section 101 of the HEA (20 U.S.C. 1001), or State higher education agencies that:

(a) Lead the activities of a consortium that is comprised of at least:

(i) Three IHEs as defined in section 101 of the HEA;

(ii) An educational technology or electronic curriculum design expert (which may include such experts that are employed by one or more of the consortium institutions); and

(iii) An advisory group of at least three employers, workforce organizations, or sector partners; and

(b) Have demonstrated experience in the development and implementation of open educational resources.

2. a. *Cost Sharing or Matching:* This program 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 Uniform Guidance.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to entities listed in the grant 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/2022–26554,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on December 27, 2021.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the Open Textbook Pilot 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, 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 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 that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 60 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 all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions.
- Use a readable 12-point font such as Times New Roman, Courier, Courier New, or Arial.

The recommended 60-page limit applies only to the application narrative and does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. We recommend that any application addressing the competitive preference priority include no more than three additional pages for the priority, if the priority is addressed.

6. *Program Profile:* Applicants must indicate in the recommended one-page abstract all of the IHEs that comprise the consortium, the projected direct cost savings for students, and whether they addressed the competitive preference priority and the invitational priority.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The maximum score for all of the selection criteria is 100 points. The maximum score for each criterion is included in parentheses following the title of the specific selection criterion. Each criterion also includes the factors that reviewers will consider in determining the extent to which an applicant meets the criterion.

Points awarded under the competitive preference priority are in addition to any points an applicant earns for all of the selection criteria in this notice. The maximum score that an application may receive under the competitive preference priority and the selection criteria is 105. The selection criteria are as follows:

a. *Significance.* (up to 20 points)

The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(1) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population (up to 10 points).

(2) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings (up to 10 points).

b. *Quality of the Project Design.* (up to 16 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 goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (up to 4 points).

(2) 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 4 points).

(3) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance (up to 4 points).

(4) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition (up to 4 points).

c. *Quality of Project Services.* (up to 15 points)

The Secretary considers the quality of the services to be provided by the proposed project. 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. In addition, the Secretary considers the following factors:

(1) The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous academic standards (up to 5 points).

(2) 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 5 points).

(3) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services (up to 5 points).

d. *Quality of Project Personnel.* (up to 9 points)

The Secretary considers the quality of the personnel who will carry out the proposed project. 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. In addition, the Secretary considers the following factors:

(1) The qualifications, including relevant training and experience, of the project director or principal investigator (up to 5 points).

(2) The qualifications, including relevant training and experience, of key project personnel (up to 4 points).

e. *Adequacy of Resources.* (up to 20 points)

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project (up to 10 points).

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project (up to 10 points).

f. *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 following factors:

(1) 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 (up to 5 points).

(2) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project (up to 5 points).

g. *Quality of the Project Evaluation.* (up to 10 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).

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).

For this competition, a panel of external reviewers will read, prepare a written evaluation of, and score all eligible applications using the selection criteria and the competitive preference priority, if applicable, provided in this notice. The individual scores of the reviewers will be added and the sum divided by the number of reviewers to determine the peer review score. The Department may use more than one tier of reviews in evaluating grantees. The Department will prepare a rank order of applications based solely on the evaluation of their quality according to the selection criteria and competitive preference priority points.

In the event there are two or more applications with the same final score in the rank order listing, and there are insufficient funds to fully support each of these applications, the Department will apply the following procedure to determine which application or applications will receive an award:

First Tiebreaker: The first tiebreaker will be the highest average score for the selection criterion ''Quality of the Project Design.'' If a tie remains, the second tiebreaker will be utilized.

Second Tiebreaker: The second tiebreaker will be the highest average score for the selection criterion ''Significance.'' If a tie remains, the third tiebreaker will be utilized.

Third Tiebreaker: The third tiebreaker will be the highest average score for the competitive preference priority. If a tie remains, the fourth tiebreaker will be utilized.

Fourth Tiebreaker: The fourth tiebreaker will be the applicant that proposes the highest level of savings for students in response to Absolute Priority 3 and the Annual Performance Reporting requirements. Applicants must indicate the projected direct cost savings for students in the one-page abstract. If a tie remains, the fifth tiebreaker will be utilized.

Fifth Tiebreaker: The fifth tiebreaker will be the applicant that promotes equitable geographic distribution of OTP grantees.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition 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 Office of Management and Budget's guidance 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 the 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 will 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 will 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 the purposes of Department reporting under 34 CFR 75.110, we have established the following set of performance measures for the Open Textbooks Pilot program grants:

a. The number of students who enrolled in courses that use open textbooks and/or ancillary materials developed through the grant;

b. The number of students who completed courses that used open textbooks and/or ancillary materials developed through the grant;

c. The failure rate or withdrawal rate in courses that use open textbooks and/or ancillary materials compared with equivalent courses that used commercial textbooks;

d. The average grade of students who completed a course that used open textbooks and/or ancillary materials developed through the grant compared with the equivalent average grade of students who used commercial textbooks;

e. The number of faculty/instructors that use open textbooks and/or ancillary materials developed through the grant;

f. The number of institutions within the consortium, and the number of institutions outside of the consortium, that adopted the open textbooks and/or ancillary materials developed through the grant;

g. The number of courses among consortium members that adopted the open textbooks and/or ancillary materials developed through the grant, compared to those that continued to use commercial textbooks;

h. The number of faculty/instructors or institutions that use tools for revising and remixing open educational resources content to facilitate adoption of open textbooks and/or ancillary materials developed through the grant;

i. The average cost savings per student; and

j. The total cost savings for students who used open textbooks and/or ancillary materials developed through the grant compared to students in the same course of study who used traditional textbooks.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, 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).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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 website 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 for free at the website.

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 the Office of Postsecondary Education.

[FR Doc. 2023–05456 Filed 3–16–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0045]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Demonstration Grants for Indian Children and Youth Program Grant Application Package (1894–0001)

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before April 17, 2023.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Donna Bussell, 202–453–6813.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Demonstration Grants for Indian Children and Youth Program Grant Application Package (1894–0001).

OMB Control Number: 1810–0722.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 100.

Total Estimated Number of Annual Burden Hours: 3,000.

Abstract: The Office of Indian Education (OIE) of the U.S. Department of Education (ED) requests an extension of clearance for the Indian Education Demonstration Grant Application, a competitive discretionary grant program authorized under title VI, part A, of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The purpose of the Demonstration program is to provide financial assistance to projects that develop, test, and demonstrate the effectiveness of services and programs to improve the educational opportunities and achievement of Indian students in preschool, elementary, and secondary schools. The grant applications submitted for it are evaluated on the basis of how well an applicant addresses the selection criteria and are used to determine applicant eligibility and amount of award for projects selected for funding.

This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Dated: March 13, 2023.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–05413 Filed 3–16–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[GDO Docket No. EA–339–C]

Application for Renewal of Authorization To Export Electric Energy; Shell Energy North America (US), L.P.

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: Shell Energy North America (US), L.P. (the Applicant or Shell Energy) 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 April 17, 2023.

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: Steven Blazek, (240) 474–2780, *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 June 13, 2022, the authority to issue such orders was delegated to the DOE's Grid Deployment Office (GDO) under Delegation Order No. S1–DEL–S3–2022–2 and Redelegation Order No. S3–DEL–GD1–2022.

On May 5, 2008, DOE issued Order No. EA–339 authorizing Shell Energy to transmit electric energy from the United States to Canada as a power marketer. DOE subsequently renewed Shell Energy's authorization to export electric energy from the United States to Canada as a power marketer in Order No. EA–339–A (May 9, 2013), and again in Order No. EA–339–B (May 30, 2018). On December 2, 2022, Shell Energy filed an application with DOE (Application or App) for renewal of their export authority for an additional five-year term. App at 1.

In its Application, Shell Energy states that it ''does not own or control any transmission or distribution facilities'' and ''does not have a franchised service area.'' App at 2. Shell Energy seeks to renew its authority to ''export electric energy acquired from U.S. generating sources to Canada over international electric transmission facilities.'' App at 3. Shell Energy represents that it ''will purchase the power to be exported from electric utilities, qualifying small power production facilities, cogeneration facilities and federal power marketing agencies'' and that ''electric energy exported pursuant to the authorization requested in this Renewal Application, whether on a firm or interruptible basis, will be purchased in bilateral, voluntary transactions from the surplus and available electric energy of the generator/seller.'' App at 4. Therefore, ''Shell Energy's exports to Canada will not impair the sufficiency of the electric power supply within the U.S.'' *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 the address provided above. 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 above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning Shell Energy's Application should be clearly marked with GDO Docket No. EA–339–C. Additional copies are to be provided directly to David L. Smith, Regulatory Advisor DF—Shell Energy, 1000 Main, Suite 1200, Houston, TX 77002–6336, (713) 767–5542, *dave.l.smith@shell.com* and Catherine McCarthy, Partner—Bracewell LLP, 2001 M. Street NW, Suite 900, Washington, DC 20036–3310, (202) 828–5839, *Catherine.mccarthy@bracewell.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* or by emailing *Electricity.Exports@hq.doe.gov.*

Signing Authority: This document of the Department of Energy was signed on March 13, 2023, 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 March 14, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–05469 Filed 3–16–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[GDO Docket No. EA–380–A]

Application for Renewal of Authorization To Export Electric Energy; Freepoint Commodities LLC

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: Freepoint Commodities LLC (the Applicant or Freepoint) 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 April 17, 2023.

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: Steven Blazek, (240) 474–2780, *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 June 13, 2022, the authority to issue such orders was delegated to the DOE's Grid Deployment Office (GDO) under Delegation Order No. S1–DEL–S3–2022–2 and Redelegation Order No. S3–DEL–GD1–2022.

On September 29, 2011, in Order No. EA–380, the DOE authorized Freepoint to export electricity from the United State to Canada as a power marketer for a period of ten years ending on September 29, 2021. On September 30, 2022, Freepoint filed an application with DOE (Application or App) for renewal of their export authority for an additional ten-year term. App. at 1.

Freepoint acknowledged in its Application that it did not seek to renew its authorization to export electricity to Canada prior to the lapse of the authorization granted in Order No. EA–380. Since the expiration of that authorization, as indicated in its quarterly filings with the Department (which it continued to file, notwithstanding the expiration of the authorization), Freepoint has not exported any electricity from the United States. Freepoint seeks renewal of its authorization at this time because it anticipates entering one or more transactions that could involve exports of electricity to Canada. App at 1–2.

In its Application, the Applicant states that it ''does not own or control any electric generation or transmission facilities, nor does it hold a franchise or service territory for the transmission, distribution, or sale of electric power.'' App at 3. Freepoint further states that it ''has purchased, or will purchase, the power that may be exported to Canada from wholesale generators, electric utilities, federal power marketing agencies, and the markets administered by independent system operators (ISOs) and regional transmission organizations (RTOs).'' *Id.*

Freepoint ''plans to export electric power over authorized transmission interconnections between Canada and the United States. Transmission to the point of delivery will be arranged by Freepoint over any authorized existing international electric transmission facilities (including those set out in Attachment 1), and over any international transmission facilities that may be approved by the Department in the future.'' App at 4.

Therefore, ''Freepoint's export of electric energy to Canada does not and will not impair the sufficiency of electric supply within the United States nor does it or will it impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC).'' App at 2.

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 4; Attachment 1.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. 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 above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning Freepoint's Application should be clearly marked with GDO Docket No. EA–380–A. Additional copies are to be provided directly to Martin Ramirez, Head of Compliance, Freepoint Commodities, LLC, 58 Commerce Road, Stamford, CT 06902; (203) 542–6767; *MRamirez@freepoint.com* and Daniel E. Frank, Eversheds Sutherland (US) LLP, 700 Sixth St. NW, Suite 700, Washington, DC 20001–3980; (202) 383–0838; *DanielFrank@eversheds-sutherland.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* or by emailing *Electricity.Exports@hq.doe.gov.*

Signing Authority: This document of the Department of Energy was signed on March 13, 2023, 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 March 14, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–05466 Filed 3–16–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Update on Reimbursement for Costs of Remedial Action at Uranium and Thorium Processing Sites

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of acceptance of title X claims during fiscal year (FY) 2023.

SUMMARY: This Notice announces the Department of Energy's (DOE) acceptance of claims in FY 2023 from eligible uranium and thorium processing site licensees for reimbursement under Title X of the Energy Policy Act of 1992. In FY 2022, DOE distributed $16.155 million to licensees with approved claims from licensees in the Title X Uranium and Thorium Reimbursement Program.

DATES: The closing date for the submission of FY 2023 title X claims is July 14, 2023. The claims will be processed for payment together with any eligible unpaid approved claim balances from prior years, based on the availability of funds from congressional appropriations. If the total approved claim amounts exceed the available funding, the approved claim amounts will be reimbursed on a prorated basis. All reimbursements are subject to the availability of funds from congressional appropriations.

ADDRESSES: Claims must be submitted by certified or registered mail, return receipt requested, to Charlee Anne Boger, U.S. Department of Energy, Office of Legacy Management, 2597 Legacy Way, Grand Junction, Colorado 81503. Two copies of the claim should be included with each submission. In addition to the mailed hardcopies, claims may be submitted electronically to *Charlee.Boger@lm.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Amie Robinson, Title X Program Lead at (202) 586–5000 or email: *Amie.Robinson@em.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE published a final rule under 10 CFR part 765 in the **Federal Register** on May 23, 1994, (59 FR 26714) to carry out the requirements of title X of the Energy Policy Act of 1992 (sections 1001–1004 of Pub. L. 102–486, 42 U.S.C. 2296a *et seq.*) and to establish the procedures for eligible licensees to submit claims for reimbursement. DOE amended the final rule on June 3, 2003, (68 FR 32955) to adopt several technical and administrative amendments (*e.g.,* statutory increases in the reimbursement ceilings). Title X requires DOE to reimburse eligible uranium and thorium licensees for certain costs of decontamination, decommissioning, reclamation, and other remedial action incurred by licensees at active uranium and thorium processing sites. The eligible licensees incurred these costs to remediate byproduct material, generated as an incident of sales to the United States Government of uranium or thorium that was extracted or concentrated from ores processed primarily for their source material contents. To be reimbursable, costs of remedial action must be for work that is necessary to comply with applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*), as amended, or where appropriate, with requirements established by a State pursuant to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), as amended. Claims for reimbursement must be supported by reasonable documentation as determined by DOE in accordance with 10 CFR part 765. Funds for reimbursement will be provided from the Uranium Enrichment Decontamination and Decommissioning Fund established at the Department of Treasury pursuant to section 1801 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g). Payment or obligation of funds shall be subject to the requirements of the Anti-Deficiency Act (31 U.S.C. 1341).

Authority: Section 1001–1004 of Pub. L. 102–486, 106 Stat. 2776 (42 U.S.C. 2296a *et seq.*).

Signing Authority

This document of the Department of Energy was signed on March 14, 2023, by Amie Robinson, Office of Waste Disposal, Office of Environmental Management, 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 March 14, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–05505 Filed 3–16–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD23–6–000]

Notice of Intent To Update the Upland Erosion Control, Revegetation and Maintenance Plan and the Wetland and Waterbody Construction and Mitigation Procedures and Request for Comments

The staff of the Federal Energy Regulatory Commission (FERC or Commission) are reviewing the May 2013 *Upland Erosion Control, Revegetation and Maintenance Plan* (Plan) and *Wetland and Waterbody Construction and Mitigation Procedures* (Procedures) to determine if there are appropriate updates or improvements required at this time. Commission staff are asking for public input and suggestions for modifications to the Plan and Procedures from stakeholders and practitioners, including federal, state and local agencies, environmental consultants, inspectors, the natural gas industry, construction contractors, and other interested parties with special expertise with respect to environmental issues associated with natural gas pipeline projects. Please note that this comment period will close on May 9, 2023.

The Plan and Procedures are referred to at 18 Code of Federal Regulations (CFR) 380.12(i)(5) and 380.12(d)(2), respectively, as well as 18 CFR 157.206(b)(3)(iv). Full texts of the current versions of the Plan and Procedures can be viewed on the Federal Energy Regulatory Commission (FERC or Commission) website at *https://www.ferc.gov/sites/default/files/2020-04/upland-erosion-control-revegetation-maintenance-plan.pdf* and *https://www.ferc.gov/sites/default/files/2020-04/wetland-waterbody-construction-mitigation-procedures.pdf,* respectively.

Commission staff anticipate issuing draft changes to the Plan and Procedures in late 2023 and will make them available for public comment. Commission staff will then consider all timely comments on the drafts before issuing the final versions.

Interested parties can help determine the appropriate updates and improvements to make by providing comments or suggestions that focus on the specific sections requiring clarification, updates to reflect current laws and regulations, or improved measures to avoid or minimize environmental impacts. The more specific your comments, the more useful they will be. Commission staff also encourage commentors to include references for any scientific studies associated with their comments. Please note that the measures in the Plan and Procedures are primarily performance-based, so that they can be applied to pipeline projects throughout the entire country. Suggestions for prescriptive language or comments focused on one portion of the country will provide limited value.

There are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments;

(2) You can file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the docket number AD23–6–000 on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

All of the information related to the proposed updates to the Plan and Procedures and submitted comments can be found on the FERC website (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, confirm that ''General Search'' is selected, and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* AD23–6). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Additionally, the Commission offers a free service called eSubscription. This service provides autotomatic notification of filings made to subscribed dockets, document summaries, and direct links to documents. Go to *https://ferconline.ferc.gov/Login.aspx* to register for eSubscription.

Dated: March 10, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–05420 Filed 3–16–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG23–88–000.

Applicants: Fifth Standard Solar PV, LLC.

Description: Fifth Standard Solar PV, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/10/23.

Accession Number: 20230310–5173.

Comment Date: 5 p.m. ET 3/31/23.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL23–45–000.

Applicants: Public Service Commission of West Virginia v. *PJM Interconnection, L.L.C.*

Description: Complaint of Public Service Commission of West Virginia v. *PJM Interconnection, L.L.C.*

Filed Date: 3/8/23.

Accession Number: 20230308–5167.

Comment Date: 5 p.m. ET 3/28/23.

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

Docket Numbers: ER10–2126–006; EL23–9–000.

Applicants: Idaho Power Company.

Description: Response to February 15, 2023, Deficiency Letter of Idaho Power Company.

Filed Date: 3/7/23.

Accession Number: 20230307–5185.

Comment Date: 5 p.m. ET 3/28/23.

Docket Numbers: ER22–290–003.
Applicants: Oakland Power Company LLC.
Description: Compliance filing: Notice of Implementation of Capital Items to be effective 9/1/2022.
Filed Date: 3/10/23.
Accession Number: 20230310–5169.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–892–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment to Enhancements in OATT Att. Q and Request Shortened Comment Period to be effective 4/6/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5193.
Comment Date: 5 p.m. ET 3/15/23.
Docket Numbers: ER23–926–000.
Applicants: LS Power Grid California, LLC.
Description: LS Power Grid California, LLC submits Supplemental Information re HVDC Projects under ER23–926.
Filed Date: 3/9/23.
Accession Number: 20230309–5222.
Comment Date: 5 p.m. ET 3/20/23.
Docket Numbers: ER23–1279–000.
Applicants: DTE Energy Services, Inc.
Description: Baseline eTariff Filing: DTE Energy Services MBR Application Filing to be effective 3/10/2023.
Filed Date: 3/9/23.
Accession Number: 20230309–5146.
Comment Date: 5 p.m. ET 3/30/23.
Docket Numbers: ER23–1281–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2023–03–10_SA 3314 Entergy Louisiana-St. James Solar 1st Rev GIA (J1142) to be effective 3/2/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5009.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1284–000.
Applicants: ITC Midwest LLC.
Description: § 205(d) Rate Filing: Filing of an Amended and Restated Interconnection Agreement to be effective 5/10/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5013.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1285–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amended WMPA, Service Agreement No. 4840; Queue No. AC2–174 to be effective 5/10/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5025.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1286–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6664; Queue No. AF1–083 to be effective 5/9/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5027.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1290–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6657; Queue No. AF1–050 to be effective 5/9/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5031.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1291–000.
Applicants: Ashtabula Wind III, LLC.
Description: Tariff Amendment: Ashtabula Wind III, LLC Notice of Cancellation of Market-Based Rate Tariff to be effective 3/11/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5050.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1292–000.
Applicants: PacifiCorp.
Description: Tariff Amendment: Termination of Avangrid Const Agmt for Klamath Metering to be effective 5/25/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5054.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1297–000.
Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2023–03–10_SA 1926 METC–CE 9th Rev DTIA to be effective 3/1/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5073.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1298–000.
Applicants: OnPoint Energy Illinois, LLC.
Description: Tariff Amendment: Notice of Cancellation and Request for Waiver to be effective 3/11/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5079.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1299–000.
Applicants: OnPoint Energy Northeast, LLC.
Description: Compliance filing: Notice of Succession and Revised Market-Based Rate Tariff to be effective 3/11/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5080.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1300–000.
Applicants: OnPoint Energy Ohio, LLC.
Description: Tariff Amendment: Notice of Cancellation and Request for Waiver to be effective 3/11/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5082.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1302–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: RE Limestone LGIA Termination Filing to be effective 3/10/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5084.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1304–000.
Applicants: MFT Energy US 1 LLC.
Description: Baseline eTariff Filing: Baseline new to be effective 3/13/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5085.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1307–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: NYISO 205 filing re: Virtual and External Transactions to be effective 12/31/9998.
Filed Date: 3/10/23.
Accession Number: 20230310–5118.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1308–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2023–03–10_SA 4005 Ameren Missouri-Northeast Missouri Wind FSA (MPFCA) (J1025) to be effective 5/10/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5128.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1314–000.
Applicants: ITC Midwest LLC.
Description: § 205(d) Rate Filing: Joint Use Pole Agreement with Amana Society Service Company (RS No. 223) to be effective 5/10/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5156.
Comment Date: 5 p.m. ET 3/31/23.
Docket Numbers: ER23–1315–000.
Applicants: Northern Indiana Public Service Company LLC.
Description: § 205(d) Rate Filing: Lagrange TDSIC CIAC to be effective 6/1/2023.
Filed Date: 3/10/23.
Accession Number: 20230310–5175.
Comment Date: 5 p.m. ET 3/31/23.

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

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) 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.

Dated: March 10, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–05425 Filed 3–16–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1277–000]

Aron Energy Prepay 23, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Aron Energy Prepay 23 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 30, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: March 10, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–05423 Filed 3–16–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1276–000]

Aron Energy Prepay 22 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Aron Energy Prepay 22 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 30, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: March 10, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–05417 Filed 3–16–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–138–000]

Northern Natural Gas Company; Notice of Availability of the Final Environmental Impact Statement for The Proposed Northern Lights 2023 Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) for the Northern Lights 2023 Expansion Project (Project), proposed by Northern Natural Gas Company (Northern) in the above-referenced docket. Northern requests authorization to abandon, construct, and operate certain interstate natural gas facilities in Freeborn, Washington, Scott, Sherburne, and Stearns Counties, Minnesota and Monroe County, Wisconsin. The proposed Project would allow Northern to provide up to 44,222 dekatherms per day (Dth/d) of natural gas in incremental winter peak day firm transportation service to its existing residential, commercial, and industrial customer market and 6,667 Dth/d of additional firm service that would allow enhanced reliability and flexibility in providing natural gas transportation capacity for electric generation.

The final EIS assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed Project, with the mitigation measures recommended in the final EIS, would result in limited adverse environmental impacts. Most adverse environmental impacts would be temporary or short-term during construction, but some long-term and permanent environmental impacts would occur on some forested lands. With the exception of climate change impacts that are not characterized in this final EIS as significant or insignificant, staff concludes that impacts would be reduced to less than significant levels through implementation of Northern's proposed avoidance, minimization, and mitigation measures, as well as staff's Project-specific recommendations.

The Project would involve six new pipeline segments (four pipeline extensions and two pipeline loops [1]), totaling 9.8 miles of pipe. The pipelines would range in size from 4 to 36 inches-in-diameter. Northern also proposes construction of four new valve settings and modifications at six existing aboveground facilities. Additionally, Northern proposes to abandon and remove two existing valve settings.

The final EIS addresses the potential environmental effects of the abandonment, construction and operation of the following Project facilities:

- construction of a 2.79-mile extension of 36-inch-diameter Ventura North E-line, Freeborn County, Minnesota;
- construction of a 1.07-mile, 30-inch-diameter loop of 20-inch-diameter Elk River 1st and 2nd branch lines, Washington County, Minnesota;
- construction of a 1.14-mile extension of 24-inch-diameter Willmar D branch line, Scott County, Minnesota;
- construction of a 2.48-mile extension of 8-inch-diameter Princeton tie over loop, Sherburne County, Minnesota;
- construction of a 2.01-mile loop of 3-inch-diameter Paynesville branch line, Stearns County, Minnesota;
- construction of a 0.34-mile extension of 8-inch-diameter Tomah branch line loop, Monroe County, Wisconsin;
- construction or modification of aboveground facilities including; construction of one new pig launcher within an existing facility, construction of four new valve settings, replacement of valves and piping inside four existing facilities, and installation of two rupture-mitigation valves, associated piping, and building. Aboveground facilities would be in Freeborn, Washington, Scott, Sherburne, and Stearns County, Minnesota; and Monroe County, Wisconsin; and
- abandonment and removal of two valve settings and associated piping in Scott and Freeborn County, Minnesota.

The Commission mailed a copy of this *Notice of Availability* to federal, state, and local government representatives and agencies; elected officials; regional non-governmental organizations, environmental and public interest groups; potentially interested Indian tribes; affected landowners; and newspapers and libraries in the project area. The final EIS is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the final EIS may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*), select ''General Search'', and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.* CP22–138). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

In accordance with the Council on Environmental Quality's (CEQ) regulations implementing NEPA, no agency decision on a proposed action may be made until 30 days after the U.S. Environmental Protection Agency publishes a notice of availability of the final EIS in the **Federal Register**. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal appeal process that allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time the notice of the final EIS is published, allowing both periods to run concurrently. The Commission decision for this proposed action is subject to a 30-day rehearing period.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: March 10, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–05416 Filed 3–16–23; 8:45 am]

BILLING CODE 6717–01–P

[1] Loop is parallel pipelines connected at both ends that allows more gas to flow through that segment.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1278–000]

Eastern Power & Gas LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Eastern Power & Gas LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 30, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: March 10, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–05419 Filed 3–16–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1275–000]

Aron Energy Prepay 21 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Aron Energy Prepay 21 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 30, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: March 10, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–05421 Filed 3–16–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Notice of Final 2025 Provo River Project Marketing Plan and Call for 2025 Resource Pool Applications

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Final 2025 Provo River Project Marketing Plan and Call for 2025 Resource Pool Applications.

SUMMARY: Western Area Power Administration (WAPA), a federal Power Marketing Administration of the Department of Energy (DOE), Colorado River Storage Project (CRSP) Management Center (MC) announces its Final 2025 Provo River Project Marketing Plan (Marketing Plan) and Call for 2025 Resource Pool Applications (Call for Applications) for an allocation of federal energy from the Provo River Project (PRP). On

September 30, 2024, all existing PRP energy sales contracts (Contracts) will expire. This notice responds to comments received on the Proposed 2025 Provo River Project Marketing Plan (Proposed Plan) published in the **Federal Register** June 1, 2022, and sets forth the Marketing Plan. The Marketing Plan specifies the terms and conditions under which WAPA will market energy from the PRP beginning October 1, 2024, through September 30, 2054. This Marketing Plan supersedes the previous PRP marketing plan. WAPA will offer new Contracts for the sale of energy to existing customers (Customers). The Marketing Plan also establishes one resource pool (2025 Resource Pool) of up to 3 percent of the net marketable resource under contract at the time of reallocation to be available for eligible new preference entities. Eligible preference entities who wish to apply for a new allocation from the PRP must submit a formal application using the Applicant Profile Data (APD) application form and satisfy the criteria as described in this **Federal Register** notice.

DATES: The Marketing Plan will become applicable April 17, 2023. The Call for Applications will begin on that same date. WAPA must receive a completed and signed application using the APD form by 4:00 p.m., MDT, on June 15, 2023 to be assured of consideration by WAPA.

ADDRESSES: Preference entities interested in applying for an allocation may submit a completed hard copy APD application form with a wet signature to: Mr. Rodney G. Bailey, CRSP Manager, CRSP MC, Western Area Power Administration, 1800 South Rio Grande Avenue, Montrose, CO 81401. APD application forms with an e-signature may be emailed to *Provo-Marketing@wapa.gov.* All APD forms must be received by WAPA within the time required in the **DATES** Section, herein.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Manion, CRSP Contracts and Energy Services Manager, *Manion@wapa.gov,* 720–201–3285, or fax at 970–240–6282. Written requests for information should be mailed to the CRSP MC in the **ADDRESSES** section, herein. Information on development of the Marketing Plan and ADP application form can be found at *https://www.wapa.gov/regions/CRSP/PowerMarketing/Pages/2025-provo-power-marketing-plan.aspx.*

SUPPLEMENTARY INFORMATION:

Background

WAPA is responsible for marketing power from the PRP, which is done independently from the other projects marketed by WAPA's CRSP, including the Salt Lake City Area Integrated Projects (SLCA/IP), Olmsted Project, and the Falcon-Amistad Project. In addition to marketing power from the PRP and other projects, WAPA's CRSP operates approximately 2,316 miles of transmission lines and associated infrastructure related to these federal hydroelectric projects across Arizona, New Mexico, Colorado, Utah, and Wyoming.

The PRP is a small water development project, with a powerplant, in northern Utah. It was authorized by President Franklin D. Roosevelt, in part, as a response to the Great Depression and a severe drought that devasted Utah's agriculture and threatened municipal water supplies in the 1930s. PRP's primary function is to provide water for irrigation, municipal, and industrial purposes in Salt Lake and Utah Counties, Utah. The Department of the Interior, Bureau of Reclamation (Reclamation) finished construction of the Deer Creek Dam in 1938 and the Deer Creek Powerplant in 1958, which included two 2.475-megawatt generators. On June 27, 1936, Reclamation signed contract number Ilr-874 making the Provo River Water Users' Association (PRWUA) the operator of the dam and responsible for repayment of the PRP. The initial investment in the power facilities was repaid in 1984 but there are ongoing costs associated with operation, maintenance, and replacement (OM&R) of equipment.

Between October 15 and April 15, water may be diverted from the adjacent Weber River Basin into the Provo River and stored in Deer Creek Reservoir for irrigation purposes pursuant to the terms of the 1938 contract number Ilr-1082 between the PRWUA, PacifiCorp (formerly Utah Power and Light Company), and Reclamation, among others. This winter season diversion creates a loss of hydropower generation at the Weber Powerplant on the Weber River, downstream from the diversion. As a result, PacifiCorp, the owner of the Weber Powerplant, is reimbursed for its energy losses caused by the diversion with PRP energy (Weber/Provo Water Exchange). During this winter period, PRP generation above the reimbursement amount for the Weber/Provo Water Exchange is marketed by WAPA to PRP allottees as surplus energy. During the summer period, the total available PRP generation is marketed by WAPA to PRP allottees.

The Marketing Plan, herein, describes how CRSP Management Center will market federal energy from the PRP beginning October 1, 2024, through September 30, 2054. As part of the Marketing Plan, WAPA will establish one 2025 Resource Pool of 3 percent of the net marketable resource currently under contract to be available for eligible new preference entities and Customers. The 2025 Resource Pool will be allocated and under contract by October 1, 2024. WAPA, at its discretion, will allocate a percentage of the 2025 Resource Pool to selected applicant(s) that meet the Eligibility Criteria defined in the Marketing Plan, herein. This allocation percentage will be multiplied by the 2025 Resource Pool percentage to determine the applicant's percentage of the resource pool. WAPA will publish a notice in the **Federal Register** once those proposed allocations have been determined (Proposed Allocations). The public will have an opportunity to comment on the Proposed Allocations. After reviewing the comments, WAPA will publish a notice of Proposed Allocations in the **Federal Register**. Once the final 2025 Resource Pool allocations have been published, WAPA will work with Customers and any new allottees to prepare and execute new Contracts pursuant to the General Contract Principles as described in this notice.

Response to Comments on the Proposed 2025 Provo River Project Marketing Plan

During the public consultation and comment period, WAPA received three letters and one email commenting on the Proposed Plan. In addition, WAPA received one comment during the June 28, 2022, Public Comment Forum. In preparing the Marketing Plan, WAPA reviewed and considered all comments received during the public consultation and comment period. The following is a summary of the comments received during the consultation and comment period, and WAPA's responses to those comments. Comments are grouped by subject and paraphrased for brevity when it was possible to do so without affecting the meaning of the statements.

A. Marketing Area Responses

Comment: One commenter stated they support the marketing area of the two counties of Utah and Wasatch in the State of Utah.

Response: Thank you for this comment.

B. Resource Extensions and Resource Pool Allocations Responses

Comment: One commenter stated they support WAPA's proposal to provide 95 percent of PRP's available energy to existing Customers ensuring rights to a 2025 marketing allocation.

Response: WAPA appreciates this comment. WAPA plans to reduce the proposed 5 percent Resource Pool to 3 percent, consistent with other WAPA Region's marketing plans.

Comment: One commenter stated the PRP should be renewed and continued at the same allocation percentages—and if new customers are to be added, they suggest WAPA look no further than within the current entities for these new customers. Furthermore, the current entities have experienced significant load growth, some a 10-fold increase since 1995. If allocations are reduced to current entities, this would be contrary to their needs.

Response: Thank you for this comment. WAPA appreciates the concern with the reduction in current allocations. In response, WAPA is limiting the Resource Pool to a total of 3 percent. However, a Resource Pool is required to ensure consistency with the wide-spread use policy to allow new applicants opportunity to receive an allocation.

Comment: One commenter asked if the entities receiving a percentage of PRP are paying customers or do they just get the energy for free?

Response: Customers have an obligation to pay all the allocable annual PRP powerplant expenses including an amount to assist the Provo River Water Users' Association repayment to the United States original investment in the PRP. In return, the Customers and any new allottees will receive the marketable energy of the PRP.

C. Preference Entities Responses

Comment: No comments received.
Response: No responses provided.

D. Ready, Willing, and Able Responses

Comment: One commenter stated they support the marketing criteria in the Proposed Plan; and as a preference entity serving the electrical needs of six municipalities, they stand ready, willing, and able to receive the power and energy from the PRP resource to meet continued electricity load growth for their six member cities. They are prepared to accept a new allocation under the terms and conditions of the contract.

Response: Thank you for this comment.

E. Eligible Applicants Responses

Comment: One commenter stated if new allocations are to be given, they should be the Customers with significant load growth.

Response: Existing Customers will have an opportunity to apply for a percentage of the Resource Pool.

F. Contract Obligations Responses

Comment: No comments received.
Response: No responses provided.

G. Separate Contractual Arrangements With PacifiCorp Responses

Comment: No comments received.
Response: No response provided.

H. Contract Term Responses

Comment: One commenter requested a longer contract term. They believed this will be helpful for planning for the future.

Response: WAPA appreciates this comment and agrees a longer contract term will be more effective and efficient for everyone. WAPA is lengthening the contract term to a fixed 30-year period.

I. Delivery Point Responses

Comment: No comments received.
Response: No responses provided.

J. Transmission Beyond Delivery Point Responses

Comment: No comments received
Response: No responses provided.

K. Regional Transmission Organization Responses

Comment: One commenter stated there is troubling language in Section K of the Proposed Plan regarding regional transmission.

Response: Thank you for this comment. WAPA cannot foresee all possible impacts due to PacifiCorp joining organized electricity markets, such as a regional transmission organization. The language in Section K attempts to strike a balance between unknown impacts and WAPA's ability to address potential transmission impacts beyond the PRP delivery point.

L. Rates and Payment Responses

Comment: No comments received.
Response: No responses provided.

M. General Comments Responses

Comment: One commenter stated the Summary Section of the Proposed Plan provides the current PRP Marketing Plan expires September 30, 2024. The Marketing plan completed its purpose when power from Deer Creek was allocated. The present contracts for the sale of that power terminate September 30, 2024.

Response: Thank you for this comment.

Comment: One commenter stated they value their long-standing working relationship with WAPA in managing the PRP facilities and WAPA's efforts to solve challenges associated with drought and meeting the growth for energy in the West.

Response: Thank you for this comment.

Comment: One commenter asked if Customers receive a fixed amount of energy or an allocation?

Response: Customers will receive a percentage of the total PRP marketable energy as an allocation.

Comment: One commenter noted the Proposed Plan stated the PRP generation is sold to CRSP in the summer Season while it is, of course, sold to customers.

Response: WAPA concurs with this comment and corrected the language in the Marketing Plan.

Comment: One commenter stated the Proposed Plan referenced water diverted for irrigation purposes should also emphasize Municipal and Industrial purposes.

Response: WAPA concurs with this statement and highlighted this point in the Marketing Plan.

Comment: One commenter stated the Proposed Plan provides, in part, that ''applicants. . . . Will receive a percentage of available annual winter. . .generation. . .''. However, the Proposed Plan provides that ''During this winter period, PRP generation above the reimbursement amount is sold to WAPA's CRSP as non-firm surplus energy.''

Response: Thank you for this comment. WAPA corrected this statement in the Marketing Plan to ''During this winter period, PRP generation above the reimbursement amount is marketed by WAPA to PRP allottees as surplus energy.''

Summary of Major Revisions to the Marketing Plan

WAPA revised the Marketing Plan, in part, to address comments received during the public consultation and comment period. The revisions are summarized as follows:

- *Marketing Plan Section B:* Resource Extension and Resource Pool changed from 5 percent to 3 percent; and additional clarifying language added to this section.
- *Marketing Plan Section F:* Contract Obligations clarifying language added including the addition of language pertaining to decreasing or increasing a Customer's allocation upon 180 days' notice; and new language allowing Net Billing and Bill Crediting.

• *Marketing Plan Section H:* Contract Term changed from a 10-year term with two automatic 5-year renewals to a fixed 30-year term, October 1, 2024, through September 30, 2054.

• *Marketing Plan Section K:* Regional Transmission Organization and other organized market activities sentence added ''. . .with the understanding that WAPA holds the unilateral right to ultimately agree or not agree to what those potential mitigation efforts might be and each Customer is ultimately responsible for all transmission costs associated with their allocation. . .''

• Marketing Plan added three new sections:

○ *The addition of Section I:* Acronyms and Definitions

○ *Added Section III:* Changes Due to Drought

○ *Added Section IV:* Call for 2025 Resource Pool Applications for Power

2025 Provo River Project Marketing Plan and Marketing Criteria

The Marketing Plan addresses: (1) The available PRP energy to be marketed after September 30, 2024, which is the termination date for all existing PRP Contracts; (2) the general terms and conditions under which the energy will be marketed October 1, 2024, through September 30, 2054, to Customers and new allottee(s); and (3) the criteria to determine who will be eligible to receive allocations from the 2025 Resource Pool.

WAPA will continue a collaborative process with Customers and new allotees in implementing the terms set forth in the Marketing Plan.

Within broad statutory guidelines, WAPA has discretion as to whom and under what terms it will contract for the sale of federal power, as long as preference is accorded to statutorily defined public bodies. WAPA markets power in a manner that will encourage the most widespread use at the lowest possible rates consistent with sound business principles. All products and services provided under the Marketing Plan will be subject to the operational requirements and constraints of the PRP, transmission availability, and federal authorities.

I. Acronyms and Definitions

As used herein, the following acronyms and terms, whether singular or plural, capitalized or not capitalized, shall have the following meanings:

Allocation: An offer from WAPA to sell federal energy for a certain period of time, which will convert to a right to purchase after execution of a contract.

Allocation Criteria: Criteria used to determine the amount of energy allocated to allottees.

Allottee: A preference entity receiving an allocation.

Base Resource: A percentage of the annual net marketable energy output of the PRP rather than fixed quantities of energy as determined by WAPA to be available for marketing after meeting any adjustments for operation and maintenance power requirements. The annual energy output is comprised of the available PRP generation from April through September; surplus energy available from October through April, which is PRP generation above the reimbursement amount for the Weber/Provo Water Exchange.

Bill Crediting: Contractual provisions whereby payments due to WAPA by a Customer shall be paid by a Customer to a third party when so directed by WAPA.

CRSP: Colorado River Storage Project is a DOI project designed to oversee the development of the water resources of the Upper Colorado River Basin. The project provides hydroelectric power, flood control and water storage for participating states along the upper portion of the Colorado River and its major tributaries.

Contract Principles: Provisions of the Contracts, including WAPA's General Power Contract Provisions.

CRSP Management Center: Is one of five regional offices within WAPA responsible for marketing power from federal hydrogeneration facilities.

Customer: An entity with a contract and receiving electric service from the PRP.

Electric Utility Status: Means that a Preference entity that has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase federal power from WAPA on a wholesale basis.

Eligibility Criteria: Conditions that must be met to qualify for an allocation.

Energy: Measured in terms of the work it can do over a period of time; electric energy is usually measured in kilowatt-hours (KWh) or megawatt-hours (MWh).

GPCP: General Power Contract Provisions. Standard terms and conditions included in WAPA's Contracts.

Integrated Resource Plan (IRP): A process and framework within which the costs and benefits of both demand and supply-side resources are evaluated to develop the least total cost mix of utility resource options.

Kilowatt (kW): A unit measuring the rate of production of electricity; 1 kilowatt equals 1,000 watts.

Marketing Area: The counties of Utah and Wasatch, within and to the exterior of these county boundaries as established through an administrative or political subdivision of a state Utah.

Marketing Plan: WAPA's final 2025 Power Marketing Plan for the PRP.

Megawatt (MW): A unit measuring the rate of production of electricity; 1 megawatt equals 1 million watts.

Net Billing: Payments due to WAPA by a customer may be offset against payments due to that customer by WAPA.

Power: Capacity and energy.

Preference: The requirements of Reclamation Law that provide for preference in the sale of federal power be given to certain entities such as governments (state, federal and Native American), municipalities and other corporations or agencies, and cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 (See, *e.g.,* Reclamation Project Act of 1939, Section 9(c), 43 U.S.C. 485h(c)). A Native American applicant must be an ''Indian Tribe'' as that term is defined in section 4 of the Indian Self Determination and Education Assistance Act, as amended (25 U.S.C. 5304(e)).

Provo River Project (PRP): The Department of the Interior, Bureau of Reclamation (Reclamation) constructed Deer Creek Dam (1938) and the Deer Creek Powerplant (1958), which included two 2.475-megawatt generators. On June 27, 1936, Reclamation signed contract number Ilr-874 making the PRWUA the operator of the dam and responsible for repayment of the PRP.

Reclamation Law: Refers to a series of federal laws with a lineage dating back to the late 1800s. Viewed as a whole, those laws create the framework under which WAPA markets power.

2025 Resource Pool: A pool of energy created from available net marketable PRP power resources allocated to Customers.

WAPA: Western Area Power Administration, United States Department of Energy, a federal Power Marketing Administration responsible for marketing and transmitting federal power pursuant to Reclamation Law and DOE Organization Act (42 U.S.C. 7101, *et seq.*).

II. Provo River Project Marketing Plan, General Criteria and Contract Principles

The following criteria and contract principles apply to all Contracts executed under the Marketing Plan:

A. Marketing Area

As defined in Section I., herein, the Marketing Area includes the counties of Utah and Wasatch, within and to the exterior of these county boundaries as established through an administrative or political subdivision of a state Utah.

B. Resource Extensions and 2025 Resource Pool Allocations

WAPA will provide 97 percent of the net marketable PRP resources to existing customers and establish a resource pool with the remaining energy resources for new allocations.

1. Extension for Existing Customers

Starting October 1, 2024, existing Customers will have the right to purchase 97 percent of the net marketable PRP energy resources through September 30, 2054, under new Contracts. If existing Customer(s) surrender some or all of its allocation prior to October 1, 2024, that percentage of the total Base Resource will be returned to the remaining existing Customers on a *pro rata* basis.

2. Pool Resources and Amount

The 2025 Resource Pool will consist of 3 percent of the net marketable PRP energy resources available after September 30, 2024. The 2025 Resource Pool will be created by reducing existing Customers' allocations by up to 3 percent. An estimated amount of net marketable PRP energy resource that may be available for the Resource Pool as of October 1, 2024, through September 30, 2054, is estimated at 517,306 kWh annually, an approximate figure based on the most recent 5-year net marketable power average of 17,243,527 kWh annually. PRP energy not under Contract by September 30, 2024, will be reallocated to the existing Customers on a *pro rata* basis.

3. 2025 Resource Pool Allocations

WAPA will, at its discretion, allocate a percentage of the 2025 Resource Pool to applicants that meet the Eligibility and Allocation Criteria. WAPA will take into consideration all existing federal hydropower allocations an applicant is currently receiving when determining each new 2025 Resource Pool allocation. Allocations from the 2025 Resource Pool will be determined through processes described in this Marketing Plan. The 2025 Resource Pool will be dissolved after September 30, 2024, the closing date for executing new 2025 Resource Pool Contracts.

4. 2025 Resource Pool Allocation Criteria

The following Allocation Criteria will apply to all applicants seeking a 2025 Resource Pool Allocation under the Marketing Plan:

a. Allocations will be made in amounts as determined solely by WAPA in the exercise of its discretion under Reclamation Law and considered to be in the best interest of the U.S. Government.

b. Allocations will be determined based on all existing federal hydropower allocations an applicant is currently receiving and on the applicant's load during the calendar year prior to the Call for Applications or the amount requested, whichever is less.

c. An allottee will execute an electric service contract with WAPA and comply with all the conditions in that contract.

d. Eligible Native American applicants will receive consideration for an allocation consistent with this Marketing Plan and 25 U.S.C. 3505.

C. Preference Entities

As defined herein, includes Municipalities, rural electric cooperatives, and political subdivisions including irrigation or other districts, other governmental organizations, nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936, and federally recognized Native American tribes are all preference entities in accordance with section 9(c) of the Reclamation Project Act of 1939, as amended (43 U.S.C. 485h(c)). A Native American applicant must be an ''Indian Tribe'' as that term is defined in section 4 of the Indian Self Determination and Education Assistance Act, as amended (25 U.S.C. 5304(e)).

D. Ready, Willing, and Able

Eligible applicants must be ready, willing, and able to receive and distribute or consume energy from WAPA by October 1, 2024. ''Ready, willing, and able'' means the applicant has the facilities needed for the receipt of power or has made the necessary arrangements for transmission and/or distribution service, and its power supply contracts with third parties to permit the delivery of WAPA's power.

E. Eligible Applicants

WAPA will apply the following Eligibility Criteria to all applicants seeking a 2025 Resource Pool Allocation under the Marketing Plan:

1. Applicants must meet the preference requirements under Section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)(1)), as amended and supplemented.

2. Applicants must be located within the Marketing Area.

3. Applicants that require energy for their own use must be ready, willing, and able to receive and use federal energy.

4. Applicants that provide retail electric service must be ready, willing, and able to receive and use the federal energy to provide electric service to their customers, not for resale to other utilities.

5. Applicants must submit an application in response to the Call for 2025 Resource Pool Applications by the deadline for receipt by WAPA as specified in the **DATES** section, herein.

6. Native American applicants must be a Native American tribe as defined in the Indian Self Determination Act of 1975 (25 U.S.C. 5304).

7. WAPA generally will not allocate power to applicants with loads of less than 1 MW; however, allocations to applicants with loads of at least 500 kW may be considered, provided the loads can be aggregated with other allottees' loads to schedule and deliver to a minimum load of 1 MW.

F. Contract Obligations

Eligible applicants that receive an allocation must execute Contracts within 6 months of receiving a contract offer from WAPA, unless WAPA agrees otherwise in writing. Furthermore, applicants must comply with all terms and conditions stated within that contract, including:

1. Clauses specifying criteria to receive electric service from WAPA.

2. WAPA's standard provisions, policies and procedures for Contracts, Integrated Resource Plans, General Power Contract Provisions, and creditworthiness as determined by WAPA.

3. Clauses that allow WAPA to reduce or increase an allottee's or Customer's allocation percentage, upon 180 days' notice, if WAPA determines that (1) the allottee or Customer is not using this power to serve its own loads; (2) the allocation amounts are consistently greater than the Customer's maximum load; or (3) the Customer is allotted a percentage of allocation returned to WAPA from another Customer.

4. Clauses concerning any energy not under Contract may be allocated at any time, at WAPA's sole discretion, or sold as deemed appropriate by WAPA, consistent with federal law.

5. Clause providing for alternative funding arrangements, including Net

Billing, Bill Crediting, Reimbursable Financing, and advance payment.

6. Contracts may include a clause providing for alternative funding arrangements, including Net Billing, Bill Crediting, Reimbursable Financing, and advance payment.

7. All power supplied by WAPA will be delivered pursuant to a scheduling agreement negotiated between WAPA, Customers and the allottees. Terms and conditions are subject to WAPA's final approval.

8. Clauses stipulating that Customers will pay for their percentage of the Base Resource, pursuant to the formula rate described in Section L, herein. Customers must pay all applicable rates and charges in the manner and within the time prescribed in the Contract.

G. Separate Contractual Arrangements With PacifiCorp

Eligible applicants that receive an allocation must execute a separate multi-party agreement among WAPA, Reclamation, Central Utah Water Conservation District, PRWUA, and PacifiCorp to ensure repayment of energy to PacifiCorp for the loss of power generation due to the Weber/Provo Water Exchange.

H. Contract Term

Contracts shall provide for WAPA to furnish electric service beginning October 1, 2024, through September 30, 2054.

I. Delivery Point

PRP is electrically interconnected to PacifiCorp's 138-kilovolt (kV) transmission system (PacifiCorp's System). Eligible applicants taking delivery of power from WAPA must do so at the PacifiCorp System 138-kV Hale Powerplant Switchyard, South Provo Tap, or Spanish Fork Substation.

J. Transmission Beyond Delivery Point

Any associated transformation/transmission beyond the PacifiCorp System 138-kV Hale Powerplant Switchyard, South Provo Tap, or Spanish Fork Substation is the sole responsibility of the eligible applicants that receive an allocation. Eligible applicants that receive an allocation must have the necessary arrangements for transmission and/or distribution service in place by the first effective day of the Contract.

K. Regional Transmission Organization

Should PacifiCorp, as the balancing authority operator where the PRP project is interconnected, join a full electricity market (*e.g.,* a Regional Transmission Organization and/or an Independent System Operator), and in joining that market create unintended delivery point/point-of-receipt financial impact to the PRP, and/or other unintended financial impacts, such financial impacts will be included as part of the PRP operation expenses. WAPA will work with the Customers and eligible applicants that receive an allocation in good faith in an attempt to minimize financial impacts with the understanding that WAPA holds the unilateral right to ultimately agree or not agree to what those potential mitigation efforts might be and each Customer is ultimately responsible for all transmission costs associated with their allocation.

L. Rates and Payment

PRP is a ''take all, pay all'' project. This means the annual revenue requirement does not depend on the amount of energy available each year. Each eligible applicant that receives an allocation will receive a proportional share of the energy and will annually pay a proportional share of the OM&R expenses, including a separate annual payment to Reclamation for the PRP irrigation investments, in 12 monthly installments. WAPA establishes the rates for the PRP through a separate public process. For additional information, see PRP's current Rate Order No. WAPA–189.

III. Changes Due to Drought

WAPA recognizes there have been, and continue to be, significant impacts caused from a persisting long-term drought in the Colorado River Basin, and changes in the electric utility industry. To address this concern, WAPA, in collaboration with its Customers, will include the ability to make changes in how the federal resource is marketed if there is deemed a benefit to WAPA and its Customers. Any changes implemented would be done through negotiation and revision to individual Customer and allotee Contracts.

IV. Call for 2025 Resource Pool Applications for Power

Through this **Federal Register** notice, WAPA formerly requests applications from qualified preference entities wishing to purchase power from PRP from October 1, 2024, through September 30, 2054. Existing Customers do not need to submit an application unless they are seeking to increase their allocation. All applicants must submit applications using the APD application form identified in the **SUMMARY** section, herein, so that WAPA has a uniform basis upon which to evaluate the applications. To be considered, applicants must meet the Eligibility Criteria contained in the Marketing Plan and must submit a completed APD application form by the deadline specified in the **DATES** section, herein. To ensure full consideration is given to all applicants, WAPA will not consider requests for power or applications submitted before publication of this **Federal Register** notice or after the deadline specified in the **DATES** section, herein.

1. Application Profile Data (APD)

The APD application form has been approved by the Office of Management and Budget under Control No. 1910–5136. APD application forms are available upon request to the person listed in the **FOR FURTHER INFORMATION CONTACT** section, herein; or may be accessed online at: *https://www.wapa.gov/regions/CRSP/PowerMarketing/Pages/2025-provo-power-marketing-plan.aspx.* A completed hard copy APD application form with a wet signature may be submitted by U.S. Mail or other widely accepted delivery service with certified tracking to: Mr. Rodney Bailey, CRSP Manager, CRSP MC, Western Area Power Administration, 1800 South Rio Grande Avenue, Montrose, CO 81401. APD application forms with an e-signature may be emailed to *Provo-Marketing@wapa.gov.* It is each applicant's responsibility to ensure it submits a timely application, so WAPA receives the applications before the date and time stated in the **DATES** section, herein.

Applicants must provide all information requested on the APD application form, if available and applicable. Please indicate if the requested information is not applicable or not available. WAPA may request, in writing, additional information from any applicant whose application is deficient. The applicant will have 10 business days from postmark date on WAPA's request to provide the information. In the event an applicant fails to provide all information to WAPA, the application will not be considered.

The information in the APD application form should be answered as if prepared by the entity/organization seeking the allocation of federal power. The information collected under this process will not be part of a system of records covered by the Privacy Act and may be available under the Freedom of Information Act. If you are submitting any confidential or business sensitive information, please mark such

information before submitting your application.

2. Recordkeeping Requirement

If WAPA accepts an application and the applicant receives an allocation of federal energy, the applicant must keep all information related to the APD for a period of 3 years after signing a Contract for federal energy. There is no recordkeeping requirement for unsuccessful applicants who do not receive an allocation of federal energy.

WAPA has obtained Office of Management and Budget Clearance Number 1910–5136 for collection of the above information. The APD is collected to enable WAPA to properly perform its function of marketing limited amounts of federal hydropower. The data supplied will be used by WAPA to evaluate who will receive an allocation of federal power.

3. Contracting Process

After WAPA has evaluated the applications, WAPA will publish a notice of Proposed Allocations in the **Federal Register**. The public will have an opportunity to comment on the Proposed Allocations. After reviewing the comments, WAPA will publish a notice of Final Allocations in the **Federal Register**. WAPA will begin the contracting process with the existing Customers and new allottees after publishing the final allocations in the **Federal Register**, tentatively scheduled for the fall of 2023. WAPA will offer a pro-forma contract for power allocated under the Final 2025 Resource Pool Allocations. Allottees will be required to execute a contract within 6 months of the Contract offer. Contracts will be effective upon WAPA's signature, and service will begin on October 1, 2024, and continue through September 30, 2054.

Authorities

WAPA developed the Marketing Plan in accordance with its power marketing authorities pursuant to the following Acts of Congress: Reclamation Act of June 17, 1902 (Pub. L. 57–161) (32 Stat. 388), Reclamation Project Act of August 4, 1939 (Pub. L. 76–260) (53 Stat. 1187), Department of Energy Organization Act of August 4, 1977 (Pub. L. 95–91) (91 Stat. 565), Energy Policy Act of October 30, 1992 (Pub. L. 102–575) (106 Stat. 4600, 4605), as such acts may be supplemented or amended.

Procedural Requirements

A. Review Under the National Environmental Policy Act (NEPA)

WAPA has determined that this proposed action fits within the categorical exclusion listed in appendix B to subpart D of 10 CFR part 1021 (B4.1 contracts, policies, and marketing and allocation plans for electric power). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment. A copy of the categorical exclusion determination is available on the CRSP website at: *https://www.wapa.gov/regions/CRSP/environment/Pages/environment.aspx.*

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* requires a federal agency to perform a regulatory flexibility analysis whenever the agency is required by law to publish a general notice of proposed rulemaking for any proposed rule, unless the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, a ''rule'' does not include ''a rule of particular applicability relating to rates [and] services. . .or to valuations, costs or accounting, or practices relating to such rates [and] services. . .'' (5 U.S.C. 601). WAPA has determined that this action relates to services offered by WAPA and, therefore, is not a rule within the purview of the RFA.

C. Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*), WAPA has received approval from the Office of Management and Budget for the collection of customer information in this rule, under control number 1910–5136.

D. 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.

Signing Authority

This document of the Department of Energy was signed on March 2, 2023, 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 March 14, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–05486 Filed 3–16–23; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10787–01–OAR]

California State Nonroad Engine Pollution Control Standards; Ocean-Going Vessels At-Berth and Commercial Harbor Craft; Requests for Authorization; Opportunity for Public Hearing and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its Ocean-Going Vessels At-Berth regulation (2020 At-Berth Amendments). By letter dated September 27, 2022, CARB asked that EPA authorize these amendments pursuant to section 209(e) of the Clean Air Act (CAA). CARB has also notified EPA that it has adopted amendments to its Commercial Harbor Craft regulation (2022 CHC Amendments). By letter dated January 31, 2023, CARB asked that EPA authorize these amendments pursuant to section 209(e) of the CAA. This notice announces that EPA may hold a public hearing to consider California's authorization requests for both the 2020 At-Berth Amendments and the 2022 CHC Amendments, and that EPA is now accepting written comment on the requests.

DATES: *Comments:* Written comments must be received on or before May 1, 2023. Public Hearing: The EPA may schedule a virtual public hearing and by separate **Federal Register** notice will announce whether such hearing will take place. EPA will hold a hearing only if any party notifies EPA by March 27, 2023 expressing an interest in presenting oral testimony. If EPA schedules a virtual public hearing, then EPA will extend the written comment period as appropriate and include the new date in the subsequent **Federal Register** notice. See **SUPPLEMENTARY**

INFORMATION for further information on the tentative virtual public hearing.

ADDRESSES: You may submit your comments, identified by Docket ID No. EPA–HQ–OAR–2023–0152 (for the 2020 At-Berth Amendments) and by Docket ID No. EPA–HQ–OAR–2023–0153 (for the 2022 CHC Amendments), by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.*
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, OAR, Docket EPA–HQ–OAR–2023–0152 (2020 At-Berth Amendments) or Docket EPA–HQ–OAR–2023–0153 (2022 CHC Amendments), Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except federal holidays). Instructions: All submissions received must include the Docket ID No. for one or both of these actions. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the process for this action, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Public Hearing. EPA may hold a virtual public hearing for this action only if any party notifies EPA by March 27, 2023 to express interest in presenting the Agency with oral testimony. Please refer to Participation in Virtual Public Hearing in the **SUPPLEMENTARY INFORMATION** section of this document for additional information.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Office of Transportation and Air Quality, Transportation and Climate Division (TCD), Environmental Protection Agency; Telephone number: (202) 343–9256; Email address: *dickinson.david@epa.gov;* or Kayla Steinberg, Office of Transportation and Air Quality, Transportation and Climate Division (TCD), Environmental Protection Agency; Telephone number (202) 564–7658; Email address: *steinberg.kayla@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. *Public Participation Tentative Virtual Public Hearing*: The EPA may hold a virtual hearing if any party notifies the Agency that it wishes to present oral testimony (an opportunity to submit written comment exists regardless of whether a hearing is held, and such comment is not limited to a 5 minute time slot). In order to request a virtual public hearing, a party should contact a name listed in the **FOR FURTHER INFORMATION CONTACT** section above by March 27, 2023. If EPA receives a request for a hearing, then the Agency will issue an additional **Federal Register** Notice with details of date and time, and how to register for the hearing in advance. In the event of a public hearing, EPA anticipates that each commenter will have no more than 5 minutes to provide oral testimony. In addition, the EPA recommends submitting the text of your oral testimony as written comments to the dockets as applicable. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

B. *Public Participation Written Comments*: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2023–0152 (2020 At-Berth Amendments), or Docket ID No. EPA–HQ–OAR–2023–0153 (2022 CHC Amendments) at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section of this document. Once submitted, comments cannot be edited or withdrawn from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (including such content located on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epadockets.* Documents to which the EPA refers in this action are available online at *https://www.regulations.gov/* in the docket for this action (Docket EPA–HQ– OAR–2023–0152; EPA–HQ–OAR–2023–0153).

EPA's Office of Transportation and Air Quality also maintains a web page that contains general information on its review of California waiver and authorization requests. Included on that page are links to prior waiver and authorization **Federal Register** notices. This page will also include updates regarding this authorization proceeding. The page can be accessed at *https://www.epa.gov/state-and-local-transportation/vehicle-emissions-california-waivers-and-authorizations.*

I. California's Ocean-Going Vessels At-Berth Regulation, Prior Authorization, and New Request

CARB first adopted the initial At-Berth Regulation, the Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in a California Port (2007 At-Berth Regulation), on October 16, 2008, and EPA granted California an authorization for that regulation in 2011.[1] The 2007 At-Berth Regulation applied only to container, refrigerated cargo, and cruise vessels visiting six California ports. The 2007 At-Berth Regulation required affected vessels to reduce emissions at berth by either plugging into shore power or using an equally effective compliance strategy (such as a capture and control system). Specifically, the 2007 At-Berth Regulation required fleets of container and refrigerated cargo vessels making 25 or more visits or cruise vessels making 5 or more visits to any of the six regulated ports to limit the operations and/or emissions of auxiliary engines while docked, reducing nitrogen oxide (NO_X) and diesel particulate matter (PM) emissions at berth.

On September 27, 2022, CARB submitted a new authorization request to EPA for its amendments to the 2007 At-Berth Regulation the CARB Board adopted on August 27, 2020 (2020 At-Berth Amendments).[2] The 2020 At-Berth Amendments are designed to build upon the 2007 At-Berth Regulation by extending auxiliary engine emissions reductions requirements to additional categories of OGVs (roll on—roll off (ro-ro) and tanker vessels), adding emissions reductions requirements for tanker

[1] 76 FR 77515 (Dec. 13, 2011).

[2] CARB At-Berth Authorization Request, EPA–HQ–OAR–2023–0152.

vessel auxiliary boilers, and expanding the applicability of the regulation to new ports and terminals.

The 2020 At-Berth Amendments establish, among other provisions, in-use emissions-related requirements that apply beginning January 1, 2023, with limited exceptions, to any person who owns, operates, charters, or leases any United States or foreign-flag OGV that visits a California port, terminal, or berth; any person who owns, operates, or leases a port, terminal, or berth located where OGVs visit; or any person who owns, operates, or leases a CARB approved emissions control strategy (CAECS) for OGV auxiliary engines or tanker auxiliary boilers.

II. California's Commercial Harbor Craft Regulation, Prior Authorizations, and New Request

CARB approved its original CHC regulation on November 15, 2007. The original CHC regulation established in-use emission limits for in-use ferries, excursion vessels, tugboats, and towboats equipped with federal Tier 0 and Tier 1 propulsion and auxiliary marine engines. Owners and operators of these vessels were required to upgrade the engines to meet emission limits equal to or cleaner than federal Tier 2 or Tier 3 marine engine certification standards, according to a compliance schedule that was also set forth in the regulation. The compliance schedule was based on the model year of the original engine, its hours of operation, and the vessel's home port location. On December 13, 2011, EPA granted California an authorization for the original CHC regulation.[3]

CARB subsequently adopted the CHC amendments on June 24, 2010 (2010 CHC Amendments). The 2010 CHC Amendments set forth a variety of in-use requirements, including: extending the applicability of the CHC regulations to in-use crew and supply, barge, and dredge vessels that are equipped with Tier 0 and Tier 1 propulsion and auxiliary marine engines that operate within the Regulated California Waters; deleting certain exemptions of CHC engines registered in CARB's portable equipment registration regulation or permitted by local air pollution districts; defining swing engines and clarifying certain in-use engine requirements; adding replacement engine exemptions; expanding compliance extension options; and, allowing continued use of existing engines in certain circumstances. CARB's 2010 CHC Amendments that are applicable to both new and in-use engines allow the use of EPA or CARB certified off-road (also known as nonroad)[4] compression-ignition (CI) engines to comply with the new and in-use requirements for propulsion and/or auxiliary engines and set forth a deadline for owners and operators to submit ''alternative control of emission plans.'' On January 19, 2017, EPA granted California an authorization for the original CHC regulation.[5]

On January 31, 2023, CARB submitted its authorization request to EPA for further amendments to the CHC regulation that the CARB Board adopted on March 24, 2022 (2022 CHC Amendments).[6]

The 2022 CHC Amendments requirements include, among other provisions, that new harbor craft vessels may not be sold, offered for sale, leased, rented, or acquired unless each propulsion and auxiliary engine on the vessel meets performance standards that are equivalent in stringency to: (1) the most stringent federal marine engine standard (federal Tier 3 or Tier 4 marine standards) or California or federal off-road engine standards (California or federal Final Tier 4 off-road engine standards) that were in effect at the time any of the aforementioned actions occur and that are applicable to new engines with the same power ratings and displacements as the subject propulsion and auxiliary engines, and that (2) reflect the addition of a level 3 Verified Diesel Emission Control Strategy (VDECS), such as a verified diesel particulate filter (DPF). Newly acquired in-use harbor craft may not be sold, offered for sale, leased, rented, purchased or acquired, unless each propulsion and auxiliary engine on the vessel meets the performance standards applicable to new harbor craft as discussed above.

The 2022 CHC Amendments also include additional requirements for new, newly-acquired, and in-use short-run ferries and excursion vessels. The pre-existing CHC regulation required new ferry vessels capable of transporting 75 or more passengers to be equipped with propulsion engines certified to Tier 4 marine engine standards, or with propulsion engines certified to Tier 2 or Tier 3 marine engine standards and to also be equipped with the best available control technology (BACT) to reduce emissions of NO_X or diesel PM to the greatest extent feasible. The 2022 CHC Amendments establish more stringent requirements as of December 31, 2022.

III. Clean Air Act Nonroad Engine and Vehicle Authorizations

Section 209(e)(1) of the CAA prohibits states and local governments from adopting or attempting to enforce any standard or requirement relating to the control of emissions from new nonroad vehicles or engines. The Act also preempts states from adopting and enforcing standards and other requirements related to the control of emissions from non-new nonroad engines or vehicles. Section 209(e)(2), however, requires the Administrator, after notice and opportunity for public hearing, to authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or engines if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. However, EPA shall not grant such authorization if it finds that (1) the determination of California is arbitrary and capricious; (2) California does not need such California standards to meet compelling and extraordinary conditions; or (3) California standards and accompanying enforcement procedures are not consistent with [CAA section 209].[7] On July 20, 1994, EPA promulgated a rule that sets forth, among other things, regulations providing the criteria, as found in section 209(e)(2)(A) of the (CAA), that EPA must consider before granting any California authorization request for new nonroad engine or vehicle emission standards.[8] EPA revised these regulations in 1997.[9] As stated in the preamble to the 1994 rule, EPA has historically interpreted the section 209(e)(2)(iii) ''consistency'' inquiry to require, at minimum, that California standards and enforcement procedures be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C) (as EPA has interpreted that subsection in the context of section 209(b) motor vehicle waivers).[10]

In order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. To be consistent with section 209(e)(1), California's nonroad standards and enforcement procedures must not attempt to regulate

[3] 76 FR 77521 (December 13, 2011).

[4] The federal term ''nonroad'' and the California term ''off-road'' are used interchangeably.

[5] 82 FR 77521 (January 19, 2017).

[6] CARB CHC Authorization Request, EPA–HQ–OAR–2023–0153.

[7] 42 U.S.C. 7543(e)(2)(A).

[8] 59 FR 36969 (July 20, 1994).

[9] 62 FR 67733 (December 30, 1997). The applicable regulations, now in 40 CFR part 1074, subpart B.

[10] 59 FR 36969 (July 20, 1994).

engine categories that are permanently preempted from state regulation. To determine consistency with section 209(b)(1)(C), EPA typically reviews nonroad authorization requests under the same ''consistency'' criteria that are applied to motor vehicle waiver requests. Pursuant to section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if she finds that California ''standards and accompanying enforcement procedures are not consistent with section 202(a)'' of the Act. Previous decisions granting waivers and authorizations have noted that state standards and enforcement procedures are inconsistent with section 202(a) if: (1) there is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time, or (2) the federal and state testing procedures impose inconsistent certification requirements.[11]

IV. EPA's Request for Comments

As stated above, EPA is tentatively offering the opportunity for a virtual public hearing and is requesting written comment. Specifically, we request comment on whether California's 2020 At-Berth Amendments and the 2022 CHC Amendments meet the criteria for a full authorization.[12] Specifically, we request comment on: (a) whether CARB's determination that its standards, in the aggregate, are at least as protective of public health and welfare as applicable federal standards is arbitrary and capricious, (b) whether California needs such standards to meet compelling and extraordinary conditions, and (c) whether California's standards and accompanying enforcement procedures are consistent with section 209 of the Act.

Sarah Dunham,

Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2023–05439 Filed 3–16–23; 8:45 am]

BILLING CODE 6560–50–P

[11] *Id. See also* 78 FR 58090, 58092 (September 20, 2013).

[12] EPA will separately and independently evaluate the 2020 At-Berth Amendments and the 2022 CHC Amendments and will issue separate final decisions for each.

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–061]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS) Filed March 7, 2023 10 a.m. EST Through March 13, 2023 10 a.m. EST Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20230040, Final, FERC, MN, Northern Lights 2023 Expansion Project, Review Period Ends: 04/17/2023, Contact: Office of External Affairs 866–208–3372

Amended Notice

EIS No. 20220143, Draft, USACE, NY, Draft Integrated Feasibility Report and Tier 1 Environmental Impact Statement, New York-New Jersey Harbor and Tributaries Coastal Storm Risk Management Feasibility Study, Comment Period Ends: 03/31/2023, Contact: Cheryl Alkemeyer 917–790–8723

Revision to FR Notice Published 12/16/2022; Extending the Comment Period from 03/07/2023 to 03/31/2023.

Dated: March 13, 2023.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2023–05481 Filed 3–16–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2014–0527; FRL–10763–01–ORD]

Availability of the Protocol for the Naphthalene IRIS Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a 30-day public comment period associated with release of the document, *Protocol for the Naphthalene IRIS Assessment.* This document communicates the rationale for conducting the Integrated Risk Information System (IRIS) assessment of naphthalene, describes screening criteria to identify relevant literature, outlines the approach for evaluating study quality, and describes the methods for dose-response analysis.

DATES: The 30-day public comment period begins March 17, 2023 and ends April 17, 2023. Comments must be received on or before April 17, 2023.

ADDRESSES: The Protocol for the Naphthalene IRIS Assessment will be available via the internet on the IRIS website at *https://www.epa.gov/iris* and in the public docket at *http://www.regulations.gov,* Docket ID: EPA–HQ–ORD–2014–0527.

FOR FURTHER INFORMATION CONTACT: For information on the docket, contact the ORD Docket at the EPA Headquarters Docket Center; email: *Docket_ORD@epa.gov*.

For technical information on the protocol, contact Mr. Dahnish Shams, Center for Public Health & Environmental Assessment; 202–564–2758; or email: *shams.dahnish@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background Information on the IRIS Program and Systematic Review Protocols

EPA's Integrated Risk Information System (IRIS) Program is a human health assessment program that evaluates quantitative and qualitative information on effects that may result from exposure to chemicals found in the environment. Through the IRIS Program, EPA provides high quality science-based human health assessments to support the Agency's regulatory activities and decisions to protect public health.

As part of developing a draft IRIS assessment, EPA presents a methods document, referred to as the protocol, for conducting a chemical-specific systematic review of the available scientific literature. EPA is seeking public comment on components of the protocol including the described strategies for literature searches, criteria for study inclusion or exclusion, considerations for evaluating study methods, information management for extracting data, approaches for synthesis within and across lines of evidence, and methods for derivation of toxicity values. The protocol serves to inform the subsequent development of the draft IRIS assessment. EPA may update the protocol based on the evaluation of the literature, and any updates will be posted to the docket and on the IRIS website.

II. How To Submit Technical Comments to the Docket at https://www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2014–0527 for naphthalene, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. The phone number is 202–566–1752.

For information on visiting the EPA Docket Center Public Reading Room, visit *https://www.epa.gov/dockets.* The telephone number for the Public Reading Room is 202–566–1744. The public can submit comments via *www.regulations.gov* or email.

Instructions: Direct your comments to docket number EPA–HQ–ORD–2014–0527 for naphthalene. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *https://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information through *https://www.regulations.gov* or email that you consider to be CBI or otherwise protected. The *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Docket: Documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *https://www.regulations.gov* or as a hard copy at the ORD Docket in the EPA Headquarters Docket Center.

Wayne Cascio,

Director, Center for Public Health & Environmental Assessment.

[FR Doc. 2023–05460 Filed 3–16–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0093, OMB 3060–1015, 3060–1199; FR ID 131841]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before May 16, 2023. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0093.

Title: Application for Renewal of Radio Station License for Experimental Radio Service, FCC Form 405.

Form No.: FCC Form 405.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions and state, local or Tribal government.

Number of Respondents and Responses: 520 respondents and 520 responses.

Estimated Time per Response: 2.25 hours.

Frequency of Response: On occasion, and every two year reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection (IC) is contained in sections 4(i), 301, 302, 303(e), 303(f), and 303(r), of the Communications Act of 1934, as amended; 47 U.S.C. 154(i), 301, 302, 303(e), 303(f) and 303(r).

Total Annual Burden: 1,170 hours.

Total Annual Cost: $179,400.

Needs and Uses: This collection will be submitted as an extension after this 60 day comment period in order to obtain the full three year clearance from the OMB.

FCC Form 405 is used by the Experimental Radio Service to apply for renewal of radio station licenses at the FCC. Section 307 of the Communications Act of 1934, as amended, limits the term of radio licenses to five years and requires that

written applications be submitted for renewal. The regular license period for stations in the Experimental Radio Service is either two or five years.

The information submitted on FCC Form 405 is used by the Commission staff to evaluate the applicant/licensee's need for a license renewal. In performing this function, staff performs analysis of the renewal request as compared to the original license grant to ascertain if any changes are requested. If so, additional analysis is performed to determine if such changes met the requirements of the rules of the Experimental Radio Service for interference free operation. If needed, the collected information is used to coordinate such operation with other Commission bureaus or other Federal agencies. All applications are also analyzed on their merits regarding whether they meet the general requirements for an Experimental license. These requirements are set out in 47 CFR part 5.

OMB Control Number: 3060–1015.

Title: Section 15.525—Ultra Wideband Transmission Systems Operating Under Part 15.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents and Responses: 20 respondents; 20 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: One-time, on occasion reporting requirements; and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in the 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a. and 549.

Total Annual Burden: 20 hours.

Total Annual Cost: $1,000.

Needs and Uses: This collection will be submitted as an extension after this 60-day comment period to the Office of Management and Budget (OMB) in order to obtain the full three-year clearance.

The Commission rules in 47 CFR part 15, § 15.525 requires operators of the Ultra-Wideband (UWB) imaging systems to coordinate with other Federal agencies via the FCC and to obtain approval before the UWB equipment may be used. Initial operation in a particular area may not commence until the information has been sent to the Commission and no prior approval is required. The information will be used to coordinate the operation of the Ultra-Wideband transmission systems in order to avoid interference with sensitive U.S. government radio systems. The UWB operators will be required to provide name, address and other pertinent contact information of the user, the desired geographical area of operation, and the FCC ID number, and other nomenclature of the UWB device. This information will be collected by the Commission and forwarded to the National Telecommunications and Information Administration (NTIA) under the U.S. Department of Commerce. This information collection is essential to controlling potential interference to Federal radio communications. Since initial operation in a particular area does not require approval from the FCC to operate the equipment.

OMB Control Number: 3060–1199.

Title: Section 15.407(j), U–NII Operator Filing Requirement.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 9 respondents; 9 responses.

Estimated Time per Response: 32 hours.

Frequency of Response: On occasion, one-time reporting requirement, recordkeeping and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 302, 303, 303(r), and 307.

Total Annual Burden: 288 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full year three-year clearance from them.

The Commission's Rules to Permit Unlicensed National Information Infrastructure (U–NII) in the 5 GHz Band, section 15.407(j) of the rules established filing requirements for U–NII operators that deploy a collection of more than one thousand outdoor access points with the 5.15–5.25 GHz band, parties must submit a letter to the Commission acknowledging that, should harmful interference to licensed services in this band occur, they will be required to take corrective action. Corrective actions may include reducing power, turning off devices, changing frequency bands, and/or further reducing power radiated in the vertical direction. This material shall be submitted to Laboratory Division, Office of Engineering and Technology, Federal Communications Commission, 7435 Oakland Mills Road, Columbia, MD 21046 Attn: U–NII Coordination, or via website at *https://www.fcc.gov/labhelp* with the SUBJECT LINE: ''U–NII–1 Filing''.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–05497 Filed 3–16–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0816; FR ID 131868]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before April 17, 2023.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the

comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0816.

Title: Local Telephone Competition and Broadband Reporting, Report and Order, FCC Form 477, (WC Docket No. 19–195, WC Docket No, 11–10, FCC 19–79).

Form Number: FCC Form 477.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; and State, local, or Tribal governments.

Number of Respondents and Responses: 3,400 respondents; 6,800 responses.

Estimated Time per Response: 289 hours (average).

Frequency of Response: Semi-annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4(i), 201, 218–220, 251–252, 271, 303(r), 332, and 403 of the Communications Act of 1934, as amended, and in section 706 of the Telecommunications Act of 1996, as amended, codified in section 1302 of the Broadband Data Improvement Act, 47 U.S.C. 1302.

Total Annual Burden: 1,965,200 hours.

Total Annual Cost: No cost.

Needs and Uses: FCC Form 477 provides an understanding of broadband and voice subscribership, and, through its critical connection to the Broadband Data Collection, the extent of broadband availability. The understanding of broadband subscribership and availability provided by these data are the foundation of the Commission's development of appropriate broadband policies, and enable the Commission to carry out its obligation under section 706 of the Telecommunications Act of 1996, as amended, to ''determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.'' In addition, the information collected in Form 477 enhances the Commission's analysis and understanding of the extent of voice telephone services competition, which in turn supports the Commission's efforts to open all telecommunications markets to competition and to promote innovation and investment by all participants, including new entrants, as required by the Telecommunications Act of 1996.

The Commission staff uses the information to advise the Commission about the efficacy of its rules and policies adopted to implement the Telecommunications Act of 1996. The data are necessary to evaluate the status of local telecommunications competition and broadband availability. The Commission uses the data to prepare reports that help inform consumers and policy makers at the federal and state level on the availability and adoption of broadband services, as well as on developments related to competition in the voice telephone services market. The Commission also uses the data to support its analyses in a variety of rulemaking proceedings under the Communications Act, including those related to fulfilling its universal service mandate.

The Commission releases to the public the broadband availability and mobile voice availability data that it began collecting in 2014 as a result of the Order. This information is used by consumers, federal and state government agencies, analysts, and others to determine broadband service availability by provider, technology, and speed.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–05496 Filed 3–16–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing.

SUPPLEMENTARY INFORMATION: This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992, issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation website at *www.fdic.gov/bank/individual/failed/banklist.html,* or contact the Chief, Receivership Oversight at *RO@fdic.gov* or at Division of Resolutions and Receiverships, FDIC, 600 North Pearl Street, Suite 700, Dallas, TX 75201.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10539	Silicon Valley Bank	Santa Clara	CA	03/10/2023
10540	Signature Bank	New York	NY	03/12/2023

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on March 13, 2023.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2023–05458 Filed 3–16–23; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, March 28, 2023 at 10:30 a.m. and its continuation at the conclusion of the open meeting on March 30, 2023.

PLACE: 1050 First Street NE, Washington, DC, and virtual (this meeting will be a hybrid meeting).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance matters pursuant to 52 U.S.C. 30109.

Matters relating to internal personnel decisions, or internal rules and practices.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b.)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2023–05644 Filed 3–15–23; 4:15 pm]

BILLING CODE 6715–01–P

GENERAL SERVICES ADMINISTRATION

[Notice-S–2023–01; Docket No. 2023–0002; Sequence No. 7]

Tribal Consultation Meeting

AGENCY: Office of Congressional and Intergovernmental Affairs; General Services Administration, (GSA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships, dated January 26, 2021, a notice is hereby given for a Government-to-Government consultation to discuss Tribal interests and concerns surrounding GSA's support of Tribes. In particular, GSA would like to discuss: a resource that GSA publishes titled ''Tribes and Tribal Organizations: Guide to Using GSA Solutions''; a special GSA initiative around Carbon Pollution-Free Electricity Procurement; and a special GSA initiative relating to Electric Vehicles. GSA recognizes that formal consultation with Tribal Nations is essential as GSA takes actions to implement and develop policies that might affect them.

DATES: Monday, April 3, 2023, 1:00–2:50 p.m., Pacific Time.

ADDRESSES: Reservation Economic Summit (RES) 2023 held at 3570 S Las Vegas Blvd., Las Vegas, NV 89109.

FOR FURTHER INFORMATION CONTACT: Gianelle Rivera, Associate Administrator, GSA Office of Congressional and Intergovernmental Affairs, email *tribalaffairs@gsa.gov,* or phone 202–701–9711. Register for the Consultation and find supporting documentation at *https://www.gsa.gov/resources/native-american-tribes.*

SUPPLEMENTARY INFORMATION:

Background

GSA is consulting with Tribal governments about their interests and concerns surrounding GSA's support of Tribes with a focus on three agency initiatives.

Tribes and Tribal Organizations—Guide To Using GSA Solutions

''Tribes and Tribal Organizations: Guide to Using GSA Solutions'' outlines how Tribes and Tribal organizations are eligible to use GSA solutions in the procurement of goods and services. The guide explains the various authorities that support Tribes' and Tribal organizations' use of GSA sources and programs, and identifies resources currently available for use. GSA's intent in consulting on this document, which is continuously in the process of being updated, is to invite Tribal feedback to assist GSA in improving the existing guidance to help ensure that it speaks to needs that are unique to Tribes and better supports future Tribal acquisitions.

Implementation of the Indian Energy Purchase Preference at Federal Facilities

As part of its second Tribal National Summit on November 30, 2022, the Biden-Harris administration *announced* its commitment to ensure that investments in the clean energy economy reach Tribal lands. GSA will lead a pilot focused on Tribal energy production to develop procurement strategies. GSA's intent in consulting on this topic is to gain important insight directly from Tribes, tribally owned businesses, Tribal utilities, and Tribal entrepreneurs regarding the availability, development, or challenges associated with generating and/or selling carbon pollution-free electricity to the Federal Government in order to inform GSA's development of the pilot.

Electric Vehicle (EV) Initiative for Tribal Nations

The EV Initiative for Tribal Nations helps to ensure that Tribal Nations and Native communities are part of the EV future of the country. To support this initiative, GSA is seeking input to understand Tribal Nations' role and needs as GSA, subject to applicable authorities, assists Tribes with purchasing or leasing electric vehicles, mapping the Federal facilities in Indian country to support EV infrastructure deployment, and expanding training for Tribal members on the GSA solutions available.

You can register for the Consultation and find supporting documentation at *https://www.gsa.gov/resources/native-american-tribes.* These documents are intended to help Tribal leaders anticipate discussion items for consultation and consider Tribal interests related to the topics. The official comment period for this consultation will remain open for 30 days after the in-person consultation session takes place. However, our partnership with Tribal leadership will remain ongoing.

Comments can be submitted by email at *tribalaffairs@gsa.gov*. Please use the subject line ''GSA 2023 TRIBAL CONSULTATION COMMENTS SUBMISSION.'' While *registration for the RES 2023 event is not required to participate,* we do ask that you register for the consultation through our website or onsite so that we can accurately identify the Tribal representatives present at the meeting.

Gianelle Rivera,

Associate Administrator, Office of Congressional and Intergovernmental Affairs, General Services Administration.

[FR Doc. 2023–05432 Filed 3–16–23; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–XXXX; Docket No. 2023–0001; Sequence No. 2]

Information Collection; Living Quarters Eligibility Questionnaire; GSA Form 5039

AGENCY: Office of Human Resource Management, Division of Human Capital Policy and Programs, General Services Administration (GSA).

ACTION: Notice of request for comments regarding a request for a new OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement.

DATES: Submit comments on or before May 16, 2023.

ADDRESSES: Submit comments identified by Information Collection 3090–XXXX; Living Quarters Eligibility Questionnaire; GSA Form 5039 to: *http://www.regulations.gov*.

Submit comments via the Federal eRulemaking portal by searching for ''Information Collection 3090–XXXX; Living Quarters Eligibility Questionnaire; GSA Form 5039''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–XXXX; Living Quarters Eligibility Questionnaire; GSA Form 5039''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–XXXX; *Living Quarters Allowance Eligibility Questionnaire;* GSA Form 5039'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite Information Collection 3090–XXXX; *Living Quarters Allowance Eligibility Questionnaire;* GSA Form 5039, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Colin C. Bennett, Human Resources Specialist, Office of Human Resources Management, Division of Human Capital Policy and Programs, at telephone 240–418–6822 or via email to *colin.bennett@gsa.gov* for clarification of content.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration routinely hires, reassigns, promotes or transfers Federal employees to duty stations in foreign areas (*i.e.,* outside of the United States and its territories and possessions). Civilian employees located in foreign areas are eligible for different compensation authorities compared to employees located in the United States or its territories or possessions. Besides basic pay, certain foreign allowances are often used as recruitment or retention incentives to make foreign service more economically feasible. One type of allowance is called a ''living quarters allowance,'' or ''LQA,'' and allows an agency to reimburse the cost of rental housing as well as utilities (such as electricity, natural gas, and water service). Under this authority (conveyed by the Overseas Differentials and Allowances Act of 1960, Pub. L. 86–707, Sept. 6, 1960, codified at 5 U.S.C. 5923(a)(2)), not all job candidates or overseas employees are necessarily eligible (for example, if Government-provided housing is made available). In addition, for those job candidates eligible, the amount of the benefit varies by rank (*i.e.,* GS grade), presence overseas with or without family, and overall family size. Detailed rules concerning eligibility and other matters are found in the State Department's *Department of State Standardized Regulations,* sections 031.12 and Chapter 130.

To more effectively administer LQA, the General Services Administration (GSA) has created a new agency form, GSA Form 5039, *Living Quarters Allowance Eligibility Questionnaire*. This form collects basic demographic and housing-related information and also includes questions meant to coordinate housing benefits between the U.S. military and other Federal agencies (for example, if two spouses work for different Federal agencies). Individuals who complete this pre-employment questionnaire are considered job candidates and may be members of the public (if not already Federal civilian employees). The purpose of the data collection from job candidates is to ensure that eligible applicants receive allowance consideration, in the correct amounts based on the position and family size, and ineligible candidates are not erroneously provided with this significant monetary benefit.

B. Annual Reporting Burden

Respondents: 25 per year.

Responses per Respondent: 1.

Total Annual Responses: 25.

Hours per Response: 1.

Total Burden Hours: 25.

C. Public Comments

Public comments are encouraged and are particularly invited on: (a) whether this collection of information is necessary, (b) whether it will have practical utility, (c) whether our estimate of the public burden of this collection of information is accurate (and based on valid assumptions and methodology), (d) whether or not there are ways to enhance the new form's utility and clarity of the information to be collected, and (e) whether or not there might be ways in to minimize the data collection burden through the use of information technology.

Obtaining Copies of Proposals: While the proposed GSA Form 5039 is not included within this article's publication, a copy of form can be obtained through the Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov*. Please cite OMB Control No. 3090–XXXX, *Living Quarters Allowance Eligibility Questionnaire*; GSA Form 5039, in all correspondence.

Beth Anne Killoran,

Deputy Chief Information Officer.

[FR Doc. 2023–05488 Filed 3–16–23; 8:45 am]

BILLING CODE 6820–FM–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–23–1208]

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 ''Developmental/Methodologic Projects to Improve the National Health and Nutrition Examination Survey and Related Programs'' 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 October 21, 2022 to obtain comments from the public and affected agencies. CDC received one comment 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

Developmental/Methodologic Projects to Improve the National Health and Nutrition Examination Survey and Related Programs (OMB Control No. 0920–1208, Exp. 8/31/2023)—Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability; environmental, social and other health hazards; and determinants of health of the population of the United States. The Division of Health and Nutrition Examination Surveys (DHNES) has conducted national surveys and related projects periodically between 1970 and 1994, and continuously since 1999. The mission of DHNES programs is to produce descriptive statistics which measure the health and nutrition status of the general population. The continuous operation of DHNES programs presents unique challenges in testing new survey content and activities, such as outreach or participant screening.

This Generic Information Collection Request (ICR) covers developmental projects to help evaluate and enhance DHNES existing and proposed data collection activities to increase research capacity and improve data quality. The information collected through this Generic ICR will not be used to make generalizable statements about the population of interest or to inform public policy; however, methodological findings from these projects may be reported.

The purpose and use of projects under this NHANES Generic Clearance would include developmental projects necessary for activities such as testing new procedures, equipment, technology and approaches that are going to be folded into NHANES or other NCHS programs; designing and testing examination components or survey questions; creating new studies including biomonitoring and clinical measures; creating new cohorts, including a pregnancy and/or a birth–24 month cohort; testing of the cognitive and interpretive aspects of survey methodology; feasibility testing of proposed new components or modifications to existing components; testing of human-computer interfaces/usability; assessing the acceptability of proposed NHANES components among likely participants; testing alternative approaches to existing NHANES procedures, including activities related to improving nonresponse; testing the use of or variations/adjustments in incentives; testing content of web based surveys; testing the feasibility of obtaining bodily fluid specimens (blood, urine, semen, saliva, breastmilk) and tissue sample (swabs); testing digital imaging technology and related procedures (*e.g.,* retinal scan, liver ultrasound, Dual-energy X-ray absorptiometry (DEXA), prescription and over-the-counter dietary supplements bottles); testing the feasibility of and procedure/processes for accessing participant's medical records from healthcare settings (*e.g.,* hospitals and physician offices); testing the feasibility and protocols for home examination measurements; testing survey materials and procedures to improve response rates, including changes to advance materials and protocols, changes to the incentive structure, introduction of new and timely outreach and awareness procedures including the use of social media; conducting crossover studies; creating and testing digital survey materials; and conducting customer satisfaction assessments.

The types of participants covered by the NHANES Generic may include current or past NHANES participants; family or household members of NHANES participants; individuals eligible to be participants in NHANES, but who did not screen into the actual survey; convenience samples; volunteers; subject matter experts or consultants such as survey methodologist, academic researchers, clinicians or other health care providers; NHANES data or website users; members of the general public or individuals abroad who would be part of a collaborative development project or projects between NCHS and related public health agencies in the U.S. and/or abroad. The type of participant involved in a given developmental project would be determined by the nature of the project. The details of each

project will be included in the specific GenIC submissions.

CDC requests a three-year clearance. The estimated annualized burden for this generic data collection is 59,465 hours. There is no cost to 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)
Individuals or Households	Developmental Projects & Focus Group documents.	35,000	1	1.5
Volunteers	Developmental Projects & Focus Group documents.	300	1	1.5
Individuals or households, Volunteers, NHANES Participants.	24-hour developmental projects	200	1	25
NHANES Participants	Developmental Projects	1,000	1	1.5
Subject Matter Experts	Focus Group/Developmental Project Documents.	15	1	1

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–05514 Filed 3–16–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1800–NC2]

Inflation Reduction Act (IRA) Initial Program Guidance; 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' initial guidance for the Medicare Drug Price Negotiation Program for the implementation of the Inflation Reduction Act. CMS will be releasing additional Inflation Reduction Act-related guidance; all can be viewed on the dedicated Inflation Reduction Act section of the CMS website at *https://www.cms.gov/inflation-reduction-act-and-medicare/.*

DATES: Comments must be received by April 14, 2023.

ADDRESSES: Written comments should be sent to *IRARebateandNegotiation@cms.hhs.gov* with the relevant subject line,''Medicare Drug Price Negotiation Program Guidance.''

SUPPLEMENTARY INFORMATION: The Inflation Reduction Act was signed into law on August 16, 2022. Sections 11001 and 11002 of the Inflation Reduction Act (IRA) (Pub. L. 117–169) established the Medicare Drug Price Negotiation Program (hereafter the ''Negotiation Program'') to negotiate Maximum Fair Prices (MFPs) for certain high expenditure, single source drugs and biological products. The requirements for this program are described in sections 1191 through 1198 of the Social Security Act (hereafter ''the Act'') as added by sections 11001 and 11002 of the Inflation Reduction Act.

To obtain copies of the Negotiation Program initial guidance and other Inflation Reduction Act-related documents, please access the CMS Inflation Reduction Act website by copying and pasting the following web address into your web browser: *https://www.cms.gov/inflation-reduction-act-and-medicare.* If interested in receiving CMS Inflation Reduction Act updates by email, individuals may sign up for CMS Inflation Reduction Act's email updates at *https://www.cms.gov/About-CMS/Agency-Information/Aboutwebsite/EmailUpdates.*

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: March 13, 2023.

Evell J. Barco Holland,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2023–05411 Filed 3–15–23; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity: Adoption and Foster Care Analysis and Reporting System (OMB #0970–0422)

AGENCY: Children's Bureau, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Children's Bureau, the Administration for Children and Families (ACF), in the U.S. Department of Health and Human Services (HHS) is requesting a three-year extension of the data information collection for the Adoption and Foster Care Analysis and Reporting System (AFCARS) that was implemented as part of the AFCARS final rule published in May 2020 (85 FR 28410). There are no proposed changes to the information collection published as the final rule in May 2020.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: State and tribal title IV–E agencies are required to report AFCARS case-level information on all children in foster care and children who have been adopted or placed in a

guardianship with title IV–E agency involvement. The data collected will inform policy decisions, program management, and responses to Congressional and Departmental inquiries. Specifically, the data are used for short/long-term budget projections, trend analysis, child and family service reviews, and to target areas for improved technical assistance. The data will provide information on the number of children in foster care, the reasons they enter and exit care, and how to prevent their unnecessary placement in foster care. Specifically, the data include information about children who enter foster care, their entries and exits, placement details, and foster/adoptive parent information. This extension request is unrelated to any potential new regulatory activity that may occur subsequently. This request is for public comment on the burden calculations. It does not seek comment on the data elements that have been through the rulemaking process.

Respondents: Title IV–E State and Tribal Child Welfare Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
AFCARS-Recordkeeping	69	3	8,358	1,730,106	576,702
AFCARS-Reporting	69	6	17	21,114	7,038

Estimated Total Annual Burden Hours: 583,740.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Section 479 of the Social Security Act and 45 CFR 1355.44–45.

John M. Sweet, Jr.,

ACF/OPRE Certifying Officer.

[FR Doc. 2023–05427 Filed 3–16–23; 8:45 am]

BILLING CODE 4184–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; National Child Abuse and Neglect Database System (Office of Management and Budget #0970–0424)

AGENCY: Children's Bureau, Administration for Children and Families, United States Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Children's Bureau, the Administration for Children and Families (ACF), in the United States (U.S.) Department of Health and Human Services (HHS) is requesting a three-year extension of the National Child Abuse and Neglect Data System (NCANDS) collection (Office of Management and Budget (OMB) #0970–0424, expiration August 31, 2023). There are no changes requested to this data collection.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov*. Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Child Abuse Prevention and Treatment Act (CAPTA) was amended in 1988 to direct the Secretary of HHS to establish a national data collection and analysis program, which would make available state child abuse and neglect reporting information. HHS responded by establishing NCANDS as a voluntary national reporting system.

During 1996, CAPTA was amended to require all states that receive funds from the Basic State Grant program to work with the Secretary of HHS to provide specific data elements, to the maximum extent practicable, about children who had been maltreated. Most of the required data elements were added to the NCANDS data collection. Subsequent CAPTA reauthorizations and amendments added required data elements. The current list of CAPTA required data elements includes:

(1) The number of children who were reported to the state during the year as victims of child abuse or neglect.

(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—

(a) Substantiated;

(b) Unsubstantiated; or

(c) Determined to be false.

(3) Of the number of children described in paragraph (2)—

(a) the number that did not receive services during the year under the state program funded under this section or an equivalent state program;

(b) the number that received services during the year under the state program funded under this section or an equivalent state program; and

(c) the number that were removed from their families during the year by disposition of the case.

(4) The number of families that received preventive services, including use of differential response, from the state during the year.

(5) The number of deaths in the state during the year resulting from child abuse or neglect.

(6) Of the number of children described in paragraph (5), the number of such children who were in foster care.

(7)

(a) The number of child protective service personnel responsible for the—

(i.) intake of reports filed in the previous year;

(ii.) screening of such reports;

(iii.) assessment of such reports; and

(iv.) investigation of such reports.

(b) The average caseload for the workers described in subparagraph (A).

(8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.

(9) The response time with respect to the provision of services to families and

children where an allegation of child abuse or neglect has been made.

(10) For child protective service personnel responsible for intake, screening, assessment, and investigation of child abuse and neglect reports in the state—

(a) information on the education, qualifications, and training requirements established by the state for child protective service professionals, including for entry and advancement in the profession, including advancement to supervisory positions;

(b) data of the education, qualifications, and training of such personnel;

(c) demographic information of the child protective service personnel; and

(d) information on caseload or workload requirements for such personnel, including requirements for average number and maximum number of cases per child protective service worker and supervisor.

(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse or neglect, including the death of the child.

(12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

(13) The annual report containing the summary of activities of the citizen review panels of the state required by subsection (c)(6).

(14) The number of children under the care of the state child protection system who are transferred into the custody of the state juvenile justice system.

(15) The number of children referred to a child protective services system under subsection (b)(2)(B)(ii).

(16) The number of children determined to be eligible for referral, and the number of children referred, under subsection (b)(2)(B)(xxi), to agencies providing early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.).

(17) The number of children determined to be victims described in subsection (b)(2)(B)(xxiv).

(18) The number of infants—

(a) identified under subsection (b)(2)(B)(ii);

(b) for whom a plan of safe care was developed under subsection (b)(2)(B)(iii); and

(c) for whom a referral was made for appropriate services, including services for the affected family or caregiver, under subsection (b)(2)(B)(iii).

The items listed under number (10), (13), and (14) are not collected by NCANDS.

The Children's Bureau proposes to continue collecting the NCANDS data through the two files of the Detailed Case Data Component, the Child File (the case-level component of NCANDS) and the Agency File (additional aggregate data, which cannot be collected at the case level). There are no proposed changes to the NCANDS data collection instruments.

Respondents: State governments, the District of Columbia, and the Commonwealth of Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Detailed Case Data Component: (Child File and Agency File) IT Staff	52	3	40.5	6,318	2,106
Detailed Case Data Component: (Child File and Agency File) Programmatic Staff	52	3	65.5	10,218	3,406

Estimated Total Annual Burden Hours: 5,512.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

(Authority: 42 U.S.C. 5101 *et seq.*)

John M. Sweet, Jr,

ACF/OPRE Certifying Officer.

[FR Doc. 2023–05453 Filed 3–16–23; 8:45 am]

BILLING CODE 4184–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0179]

Training Program for Regulatory Project Managers; Information Available to Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA or the Agency) Center for Drug Evaluation and Research (CDER) is announcing the continuation of the Regulatory Project Management Site Tours and Regulatory Interaction Program (the Site Tours Program). The purpose of this document is to invite pharmaceutical companies interested in participating in this program to contact CDER.

DATES: Pharmaceutical companies may send proposed agendas to the Agency by May 16, 2023.

FOR FURTHER INFORMATION CONTACT: Dan Brum, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5480, Silver Spring, MD 20993–0002, 301–796–0578, *Dan.Brum@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

An important part of CDER's commitment to make safe and effective drugs available to all Americans is optimizing the efficiency and quality of the drug review process. To support this goal, CDER has initiated various training and development programs to promote

high performance in its regulatory project management staff. CDER seeks to enhance review efficiency and review quality by providing the staff with a better understanding of the pharmaceutical industry and its operations. To this end, CDER is continuing its training program to give regulatory project managers the opportunity to tour pharmaceutical facilities. The goals are to provide the following: (1) firsthand exposure to industry's drug development processes and (2) a venue for sharing information about project management procedures (but not drug-specific information) with industry representatives.

II. The Site Tours Program

In this program, which generally lasts a few days, small groups of CDER regulatory project managers, often including a senior level regulatory project manager, can observe operations of pharmaceutical manufacturing and/or packaging facilities, pathology/toxicology laboratories, and regulatory affairs operations. Neither this tour nor any part of the program is intended as a mechanism to inspect, assess, judge, or perform a regulatory function, but is meant rather to improve mutual understanding and to provide an avenue for open dialogue. During the Site Tours Program, regulatory project managers will also participate in daily workshops with their industry counterparts, focusing on selective regulatory issues important to both CDER staff and industry. The primary objective of the daily workshops is to learn about the team approach to drug development, including drug discovery, nonclinical and clinical evaluation, postmarketing activities, and regulatory submission operations. The overall benefit to regulatory project managers will be exposure to project management, team techniques, and processes employed by the pharmaceutical industry. By participating in this program, the regulatory project manager will grow professionally by gaining a better understanding of industry processes and procedures.

III. Site Selection

All travel expenses associated with the Site Tours Program will be the responsibility of CDER; therefore, selection will be based on the availability of funds and resources for each fiscal year. Selection will also be based on firms having a favorable facility status as determined by FDA's Office of Regulatory Affairs District Offices in the firms' respective regions. Firms that want to learn more about this training opportunity or that are interested in offering a site tour should respond by sending a proposed agenda by email directly to Dan Brum (see **DATES** and **FOR FURTHER INFORMATION CONTACT**).

Dated: March 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–05509 Filed 3–16–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

[OMB No. 0915–0368—Extension]

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Health Center Patient Survey

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than April 17, 2023.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or by mail to the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the Acting HRSA Information Collection Clearance Officer, at 301–594–4394.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Health Center Patient Survey.

OMB No. 0915–0368—Extension.

Abstract: HRSA-supported health centers (those entities funded under section 330 of the Public Health Service Act) deliver comprehensive, affordable, quality primary health care to over 30 million patients nationwide, regardless of their ability to pay. Nearly 1,400 health centers operate over 14,000 service delivery sites in every U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and the Pacific Basin. In the past, HRSA conducted the Health Center Patient Survey (HCPS), which surveys patients of HRSA-funded health centers. The HCPS collects information about sociodemographic characteristics, health conditions, health behaviors, access to and utilization of health care services, and satisfaction with health care received at HRSA-funded health centers. The renewal of the HCPS will use the same modules from the 2022 HCPS (OMB #0915–0368). There is no change to the current survey instruments. Survey results come from in-person, one-on-one interviews with patients who are selected as representative of the Health Center Program patient population nationally.

A 60-day notice was published in the **Federal Register** on January 4, 2023, vol. 88, No. 2; pp. 361–362. There were no public comments.

Need and Proposed Use of the Information: The HCPS is unique because it focuses on comprehensive, nationally representative, individual level data from the perspective of health center patients. By investigating how well HRSA-funded health centers meet health care needs of the medically underserved and how patients perceive their quality of care, the HCPS serves as an empirically-based resource to inform HRSA policy, funding, and planning decisions.

Likely Respondents: Staff and patients at HRSA-supported health centers.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Awardee Recruitment	220	1	220	2.00	440.00
Site Recruitment and Training	700	1	700	3.15	2,205.00
Patient Screening	13,120	1	13,120	.17	2,230.40
Patient Screening: Short Blessed Scale [1]	18	1	18	.05	0.90
Patient Survey	9,000	1	9,000	1.00	9,000.00
Total National Study	23,058		23,058		13,876.30

[1] The Short Blessed Scale Form will be administered to respondents when a field interviewer believes that a person might be too cognitively impaired to participate in the survey. According to 2022 survey experience, only three eligible participants in the main survey were screened with this form.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2023–05482 Filed 3–16–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

[OMB No. 0915–0322—Extension]

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Data Collection Tool for State Offices of Rural Health Grant Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than April 17, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the HRSA Information Collection Clearance Officer, at *paperwork@hrsa.gov* or call (301) 594–4394.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Data Collection Tool for State Offices of Rural Health Grant Program, OMB No. 0915–0322—Extension.

Abstract: HRSA is requesting OMB approval to continue use of a Technical Assistance (TA) Data Form for the State Offices of Rural Health (SORH) Grant program established by section 338J of the Public Health Service Act (42 U.S.C. 254r). In its authorizing language (sec. 711 of the Social Security Act [42 U.S.C. 912]), Congress charged HRSA's Federal Office of Rural Health Policy (FORHP) with administering grants, cooperative agreements, and contracts to provide TA and other activities as necessary to support activities related to improving health care in rural areas. The mission of FORHP is to sustain and improve access to quality health care services for rural communities. This electronic form is used collect information from SORH grantees on the amount of direct technical assistance they provide to clients within their state.

A 60-day notice published in the **Federal Register** on December 28, 2022, vol. 87, No. 248; pp. 79891–79892. There were no public comments.

Need and Proposed Use of the Information: FORHP seeks to continue gathering information from grantees on their efforts to provide TA to clients within their state. SORH grantees submit a TA Report that includes: (1) the total number of TA encounters provided directly by the grantee; and (2) the total number of unduplicated clients that received direct TA from the grantee. These measures will continue in these three categories: (1) information disseminated, (2) information created, and (3) collaborative efforts by topic area and type of audience. These measures are used to obtain an accurate depiction of the breadth of SORH work, based on recommendations from the grantees. Submission of the TA Report is submitted via the HRSA Electronic Handbook no later than 60 days after the end of each 12-month budget period.

Grant dollars are awarded annually; therefore, this information is needed annually by the program in order to measure effective use of grant dollars consistently among all the grantees.

Likely Respondents: 50 State Offices of Rural Health award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Instrument name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Technical Assistance Report	50	1	50	13.5	675
Total	50		50		675

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2023–05485 Filed 3–16–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Nurse Corps Scholarship Program—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than April 17, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the HRSA Information Collection Clearance Officer, at 301–594–4394.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Nurse Corps Scholarship Program.

OMB No. 0915–0301—Extension.

Abstract: The Nurse Corps Scholarship Program (Nurse Corps SP), administered by HRSA, provides scholarships to nursing students in exchange for a minimum 2-year full-time service commitment (or part-time equivalent), at an eligible health care facility with a critical shortage of nurses (*i.e.,* Critical Shortage Facility (CSF)). The scholarship consists of payment of tuition, fees, other reasonable educational costs, and a monthly support stipend. Program recipients are required to fulfill Nurse Corps SP service commitments at CSFs located in the 50 states, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

A 60-day notice published in the **Federal Register** on December 5, 2023, vol. 87, No. 232; pp. 74428–29. There were no public comments.

Need and Proposed Use of the Information: The Nurse Corps SP collects data to determine an applicant's eligibility for the program, monitor a participant's continued enrollment in a school of nursing, monitor the participant's compliance with the Nurse Corps SP service obligation, and prepare annual reports to Congress. The following information will be collected (1) from the schools, on a quarterly basis—general applicant and nursing school data such as full name, location, tuition/fees, and enrollment status; (2) from the schools, on an annual basis—data concerning tuition/fees and overall student enrollment status; and (3) from the participants and their employing CSF on a biannual basis—data concerning the participant's employment status, work schedule, and leave usage. This notice includes several changes to the information collection forms that were included in the 60-day notice, and requests comments on the revised information collection. Specifically, these changes are:

(1) *Form Name Change:* The ''Initial Employment Verification Form'' changed to ''Employment Verification Form;'' and ''Employer—Participant Service Verification Form'' changed to ''In-Service Verification Form.'' These titles more adequately describe the forms.

(2) *Additional Forms:* This notice includes two additional forms. (1) The Verification of Acceptance Form, to be completed by the academic institution to verify that the participant remains in good academic standing under the policies of the institutions; and (2) the Authorization to Release Information Form, which permits the disclosure of information pertaining to the participant's school enrollment, transcripts and grades, academic standing, enrollment and degree status, curriculum and examination requirements for graduation, tuition and fees, leave-of-absence, withdrawal, or dismissal from school. This information will be used to determine eligibility to continue to receive scholarship benefits and the amount of those benefits. These forms were not included in the 60-day notice, but due to programmatic need to ensure a method to adequately track academic standing of participants and to identify ongoing eligibility information of participants, they are now being included in this notice.

(3) *Form Removal:* The CSF Verification Form was included in the 60-day notice but is not included in this notice because the data formerly collected through the CSF has been included in the revised version of the Employment Verification Form.

Likely Respondents: Nurse Corps SP scholars in school, graduates, educational institutions, and CSFs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Eligible Applications/Application Program Guidance	2,600	1	2,600	2.00	5,200
School Enrollment Verification Form	500	4	2,000	.33	660
Confirmation of Interest Form	250	1	250	.20	50
Data Collection Worksheet Form	500	1	500	1.00	500
Graduation Close Out Form	200	1	200	.17	34
Employment Verification Form	500	1	500	.42	210
In-Service Verification Form	1,000	2	2,000	.12	240
Verification of Acceptance Form	500	1	500	.33	165
Authorization to Release Information Form	200	1	200	.20	40
Total	6,250		8,750		7,099

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2023–05478 Filed 3–16–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria; Correction

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice; correction.

SUMMARY: The Office of the Assistant Secretary for Health published a document in the **Federal Register** of February 10, 2023, announcing a Meeting of Presidential Advisory Council on Combatting Antibiotic-Resistant Bacteria scheduled for March 23–24, 2023. The document includes meeting room information contained a meeting location that is now incorrect due to a room change on Thursday, March 23rd. The meeting is now scheduled to be held on March 23, 2023, from 9:30 a.m. to 4:25 p.m. ET at the Hyatt Regency Crystal City at Reagan National Airport, Regency Ballroom E/F, Arlington, Virginia. The meeting room information for Friday, March 24th remains unchanged; the meeting will be held at the Hubert H. Humphrey building in Washington, DC from 9:00 a.m. to 11:00 a.m. ET. All times are tentative.

FOR FURTHER INFORMATION CONTACT: Jomana Musmar, M.S., Ph.D., Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Rockville, MD 20852. Phone: 202–746–1512; Email: *CARB@hhs.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of February 10, 2023, in FR Doc. 2023–02921, on page 8873, in the third column, within the **ADDRESSES** section, correct the meeting location to now read, ''The public meeting is now scheduled to be held on March 23, 2023, from 9:30 a.m. to 4:25 p.m. ET at the Hyatt Regency Crystal City at Reagan National Airport, Regency Ballroom E/F, 2799 Richmond Hwy., Arlington, VA 22202. The meeting room information for Friday, March 24th remains unchanged; the meeting will be held at the Great Hall of the Hubert H. Humphrey building in Washington, DC from 9:00 a.m. to 11:00 a.m. ET. All times are tentative, please visit *HHS.GOV/PACCARB* for all updates.''

Jomana F. Musmar,

Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Office of the Assistant Secretary for Health.

[FR Doc. 2023–05503 Filed 3–16–23; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Learning, Memory, Language, Communication and Related Neuroscience.

Date: March 29, 2023.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Eileen Marie Moore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8928, *eileen.moore@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 13, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–05477 Filed 3–16–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Secretary; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Muscular Dystrophy Coordinating Committee (MDCC).

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to participate and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Muscular Dystrophy Coordinating Committee.

Date: April 11, 2023.

Time: 1:00 p.m. to 5:00 p.m. EDT.

Agenda: The purpose of this meeting is to bring together committee members, representing government agencies, patient advocacy groups, other voluntary health organizations, and patients and their families to update one another on progress relevant to the Action Plan for the Muscular Dystrophies and to coordinate activities and discuss gaps and opportunities leading to better understanding of the muscular dystrophies, advances in treatments, and improvements in patients' and their families' lives. The agenda for this meeting will be available on the MDCC website: *https://www.mdcc.nih.gov/.*

Registration: To register, please go to: *https://roseliassociates.zoomgov.com/webinar/register/WN_1r51-2vjR32Ol5FLjSnzlA.*

Webcast Live: https://videocast.nih.gov/.

Place: National Institutes of Health, Building 31, C-Wing, 6th floor, 6C Room A&B, 31 Center St., Bethesda, MD 20892.

Contact Person: Glen Nuckolls, Ph.D., Program Director, National Institute of Neurological Disorders and Stroke (NINDS), NIH, 6001 Executive Blvd., Rm. 2203, Bethesda, MD 20892, 301–496–5876, *MDCC@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Additional Health and Safety Guidance: Before attending a meeting at an NIH facility, it is important that visitors review the NIH COVID–19 Safety Plan at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/Pages/default.aspx* for information about requirements and procedures for entering NIH facilities, especially when COVID–19 community levels are medium or high. In addition, the Safer Federal Workforce website has FAQs for visitors at *https://www.saferfederalworkforce.gov/faq/visitors/.* Please note that if an individual has a COVID–19 diagnosis within 10 days of the meeting, that person must attend virtually. (For more information please read NIH's Requirements for Persons after Exposure at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/COVID-assessment-testing/Pages/persons-after-exposure.aspx* and What Happens When Someone Tests Positive at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/COVID-assessment-testing/Pages/test-positive.aspx.*) Anyone from the public can attend the open portion of the meeting virtually via the NIH Videocasting website (*http://videocast.nih.gov*). Please continue checking these websites, in addition to the committee website listed below, for the most up to date guidance as the meeting date approaches.

More information can be found on the Muscular Dystrophy Coordinating Committee home page: *https://mdcc.nih.gov/.*

Dated: March 13, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–05476 Filed 3–16–23; 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 10(d) 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: Center for Scientific Review Special Emphasis Panel; Member Conflict: HIV and AIDS related studies.

Date: April 14, 2023.

Time: 9:30 a.m. to 4:30 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: Debbie Mukherjea, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–6481, *debbie.mukherjea@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Workforce Diversity in Basic Cancer Research.

Date: April 26, 2023.

Time: 11:00 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: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7806, Bethesda, MD 20892, 301–435–1718, *jakobir@mail.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: March 13, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–05475 Filed 3–16–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, NeuroNEXT Infrastructure—Panel 1.

Date: March 28, 2023.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Iqbal Sayeed, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, 301–496–9223, *iqbal.sayeed@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NeuroNEXT Infrastructure—Panel 2.

Date: March 28–29, 2023.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, 301–435–6033, *rajarams@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: March 13, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–05474 Filed 3–16–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7071–N–01]

60-Day Notice of Proposed Information Collection: Housing Counseling Training Program; OMB Control No.: 2502–0567

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, 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:* May 16, 2023.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. 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. Pollard.

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: Housing Counseling Training Program.

OMB Approval Number: 2502–0567.

OMB Expiration Date: November 30, 2023.

Type of Request: Revision of a currently approved collection.

Form Numbers: SF–424; HUD–92910; HUD–2880; SF–425.

Description of the need for the information and proposed use: Eligible organizations submit information to HUD through *Grants.gov* when applying for grant funds to provide housing counseling training to housing counselors. HUD uses the information collected to evaluate applicants competitively and then select qualified organizations to receive funding that supplement their housing counseling training program. Post-award collection, such as quarterly reports, will allow HUD to evaluate grantees' performance.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 42.

Estimated Number of Responses: 60.

Frequency of Response: One-time application and quarterly reports.

Average Hours per Response: 28.7.

Total Estimated Burden: 1,722 hours.

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 comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Jeffrey D. Little,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2023–05491 Filed 3–16–23; 8:45 am]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–566 and 731–TA–1342 (Review)]

Softwood Lumber Products From Canada; Notice of Commission Determination To Conduct Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of the countervailing duty order and antidumping duty order on softwood lumber products from Canada would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

DATES: March 6, 2023.

FOR FURTHER INFORMATION CONTACT: Charles Cummings (202–708–1666), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On March 6, 2023, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). The Commission found that both the domestic responses and respondent interested party group responses from Canada to its notice of institution (87 FR 73778, December 1, 2022) were adequate and determined to conduct full reviews of the orders on imports from Canada. A record of the Commissioners' votes will be available from the Office of the Secretary and at the Commission's website.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 13, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–05436 Filed 3–16–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Spectrum Consortium

Notice is hereby given that, on January 13, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Spectrum Consortium (''NSC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Dish Wireless LLC, Englewood, CO; CyOne, Inc., Aberdeen, MD; Nexcepta, Inc., Gaithersburg, MD; Clarity Cyber LLC, Linthicum, MD; Edge Case Research, Inc., Pittsburgh, PA; Adsys Controls, Inc., Irvine, CA; Ultralight Industries Corp., Blue Ash, OH; and Pareto Frontier LLC, Westford, MA, have been added as parties to this venture.

Also, Coda Octopus Colmek, Murray, UT; Consolidated Resource Imaging LLC, Grand Rapids, MI; Opto-Knowledge Systems, Inc., Torrance, CA; Capraro Technologies, Inc., Utica, NY; Spectrum Bullpen LLC, Palm Bay, FL; Axellio, Inc., Colorado Springs, CO; Exyn Technologies, Philadelphia, PA; Aurotech LLC, Silver Spring, MD; Micron Technology, Inc., Seattle, WA; Wind Talker Innovations, Inc., Fife, WA; TurbineOne LLC, San Francisco, CA; Aqsacom Incorporated, Irving, TX; Capstone Partners, Inc., Lancaster, PA; AlphaPixel LLC, Evergreen, CO; KinetX, Inc., Tempe, AZ; M2 Technology, Inc., San Antonio, TX; Onclave Networks, Inc., McLean, VA; LAINE Technologies, Goose Creek, SC; Applied Technology, Inc., King George, VA; Encryptor, Inc., Plano, TX; Global Technical Systems, Virginia Beach, VA; and RPI Group, Inc., Fredericksburg, VA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSC intends to file additional written notifications disclosing all changes in membership.

On September 23, 2014, NSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 4, 2014 (79 FR 65424).

The last notification was filed with the Department on October 14, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 8, 2022 (87 FR 67494).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–05512 Filed 3–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—1EdTech Consortium, Inc.

Notice is hereby given that, on 01/219/2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), 1EdTech Consortium, Inc. (''1EdTech Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Actionaly, Corte Madera, CA; Holographic, San Francisco, CA;

Lightspeed Systems, Austin, TX; Prince George's County Public Schools, Upper Marlboro, MD; and Strongmind, Chandler, AZ, have been added as parties to this venture.

Also, Madison College/Digital Credentials Institute, Madison, WI; KC Tek, Ankara, TURKEY; Public Consulting, Boston, MA; CPALMS, Tallahassee, FL; and CatchOn, Nashville, TN, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and 1EdTech Consortium intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, 1EdTech Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on November 4, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 24, 2023 (88 FR 4208).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–05517 Filed 3–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—TM Forum

Notice is hereby given that, on January 18, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), TM Forum, A New Jersey Non-Profit Corporation (''the Forum''), filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following entities have become members of the Forum: Knut Johannessen, Oslo, NORWAY; Vijay Consultants, Bengaluru, INDIA; Swish Fibre, London, UNITED KINGDOM; Gigaclear Ltd, Abingdon, UNITED KINGDOM; NodeWeaver Corporation, Weston, FL; Surfly, Amsterdam, NETHERLANDS; Tigo Honduras, Tegucigalpa, HONDURAS; Tigo Panama, Ciudad de Panama, PANAMA; Tigo Colombia, Bogota, COLOMBIA; Fundação Cearense de Pesquisa e Cultura, Fortaleza, BRAZIL; Verso Altima d.o.o., Zagreb, CROATIA; NATEC RD LLC, Kyiv, UKRAINE; National Institute of Information and Communications Technology (NICT), Tokyo, JAPAN; Kazakhtelecom JSC, Nur-Sultan, KAZAKHSTAN; Revalora Beta Consulting, S.L., Madrid, SPAIN; Sage Management, LLC, Charleston, SC; POWERACT Consulting, Casablanca, MOROCCO; Modern Telecom Systems IT, Cairo, EGYPT; ICT Research Center of Institut Teknologi Bandung, Bandung, INDONESIA; iMocha 'Mocha Technologies Inc', Claymont, DE; Amazon Web Services, Inc., Seattle, WA; DZS Inc., Plano, TX; Levio Consulting Inc., Québec City, CANADA; LPTIC, Tripoli, LIBYA.

Also, the following members have changed their names: Sofrecom SA, Sofrecom Tunisie, Tunis, TUNISIA; Marand Software, Marand Software ltd, Ljubljana, SLOVENIA.

In addition, the following parties have withdrawn as parties to this venture: Allo Technology, Cyberjaya, MALAYSIA; ANS Digital Transformation Limited, London, UNITED KINGDOM; Billity AS, Foldrøyhamn, NORWAY; Cellwize Wireless Technologies Ltd., Tel Aviv, ISRAEL; Circa Information Corporation, Fergus, CANADA; Inselleben.Berlin GmbH, Berlin, GERMANY; iQmetrix, Vancouver, CANADA; KNOWHAWK sprl, Pont-à-Celles, BELGIUM; Lifecell Ventures Coöperatief U.A., Amsterdam, NETHERLANDS; Logate d.o.o., Podgorica, MONTENEGRO; Maplewave, Dartmouth, CANADA; National University of Ireland Maynooth, Maynooth, IRELAND; NHB Management Services SARL, Temara, MOROCCO; RIFT Inc., Chelmsford, MA; SSE Electricity, Reading, UNITED KINGDOM; SuccessFull Telecom Technology Co., Ltd., Shanghai, PEOPLE'S REPUBLIC OF CHINA; Tatic Soluções em Informática Ltda, Belo Horizonte, BRAZIL; Tecnovos Technologies LLP, Ulsoor, INDIA; Teledom d.o.o., Zagreb, CROATIA; Tshwane University of Technology Faculty of ICT, The Reeds, SOUTH AFRICA; USC—University of Southern California, Los Angeles, CA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Forum intends to file additional written notifications disclosing all changes in membership.

On October 21, 1988, the Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 8, 1988 (53 FR 49615).

The last notification was filed with the Department on October 27, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 23, 2022 (87 FR 71679).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–05507 Filed 3–16–23; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Homeland Security Technology Consortium

Notice is hereby given that, on January 26, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Homeland Security Technology Consortium (''HSTech'') formerly known as (fka) the Border Security Technology Consortium (''BSTC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, A1C Partners LLC, Davidsonville, MD; BuzzClan LLC, Dallas, TX; Cignal LLC, Reedsville, PA; Cyber DI LLC, Great Falls, VA; geoConvergence LLC, Bloomington, IN; Gray Zone LLC, Burke, VA; Hikino Associates, LLC dba IoT/AI, Inc., Fremont, CA; Intelsat General Communications LLC, McLean, VA; LMI Consulting LLC, Tysons, VA; and Ultra Electronics Advanced Tactical Systems, Inc., Austin, TX, have been added as parties to this venture.

Also, Ernst & Young LLP, Tysons, VA; Chakrabarti Management Consultancy, Inc., Fairfax, VA; LAINE LLC, Goose Creek, SC; Liberty Consulting Solutions, Toms River, NJ; and Sonalysts, Inc., Waterford, CT, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HSTech (fka BSTC) intends to file additional written notifications disclosing all changes in membership.

On May 30, 2012, HSTech (fka BSTC) filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 18, 2012 (77 FR 36292).

The last notification was filed with the Department on November 2, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 22, 2022 (87 FR 71357).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–05516 Filed 3–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OpenJS Foundation

Notice is hereby given that, on 01/12/2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenJS Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, FlowForge, Inc., San Francisco, CA, has been added as a party to this venture.

Also, Online Only OÜ (dba WebsiteSetup), Harjumaa, ESTONIA; and Coinbase, Oakland, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenJS Foundation intends to file additional written notifications disclosing all changes in membership.

On August 17, 2015, OpenJS Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2015 (80 FR 58297).

The last notification was filed with the Department on October 17, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 8, 2022 (87 FR 67495).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–05508 Filed 3–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pxi Systems Alliance, Inc.

Notice is hereby given that, on January 6, 2023, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. (''PXI Systems'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ceyear Technologies Co., Qingdao, PEOPLE'S REPUBLIC OF CHINA; RIGOL Technologies, Co., Ltd., Suzhou City, PEOPLE'S REPUBLIC OF CHINA; and Thorlabs, Inc., Newton, NJ, have been added as parties to this venture.

Also, 4Links Limited, Milton Keynes, UNITED KINGDOM, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on October 18, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 8, 2022 (87 FR 67490).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–05504 Filed 3–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Resilient Infrastructure + Secure Energy Consortium

Notice is hereby given that, on January 11, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Resilient Infrastructure + Secure Energy Consortium (''RISE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Applied Research Transformation PLLC, Durham, NC; ASC Associates, Inc., Aurora, OH; Astrolabe Analytics, Inc., Seattle, WA; Continuum Dynamics, Inc., Ewing, NJ; Defense Maritime Solutions, Chesapeake, VA; DeltaHawk Engines, Racine, WI; ForwardEdge AI, Washington, DC; GridMatrix, Cupertino, CA; GTA, Inc., Atlanta, GA; INESS, Rochester, NY; Lutron Technologies LLC, Lees Summit, MO; Nivid Technologies, Sterling VA; Onyx Renewable Partners, New York, NY; Pareto Energy, Ltd., Washington, DC; Phelps2020, Inc., Knoxville, TN; Roadway Management Technologies, Little Rock, AR; RoGO Fire dba RoGO Communications, Westminster, CO; RTSync Corp., Chandler, AZ; Sensagrate, Scottsdale, AZ; Skuld LLC, London, OH; Tiami LLC, Sacramento, CA; TRAXyL, Inc., Gainesville, VA; Ubicquia, Fort Lauderdale, FL; Valqari LLC, Lombard, FL; and Xage Security, Inc., Palo Alto, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RISE intends to file additional written notifications disclosing all changes in membership.

On July 2, 2021, RISE filed its original notification pursuant to Section 6(a) of

the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 23, 2021 (86 FR 47155).

The last notification was filed with the Department on October 11, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 23, 2022 (87 FR 71679).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–05515 Filed 3–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—America's DataHub Consortium

Notice is hereby given that, on January 11, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), America's DataHub Consortium (''ADC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Drexel University, Philadelphia, PA; Virginia Commonwealth University, Richmond, VA; Duality Technologies, Hoboken, NJ; Muro & Associates, Inc., Auburn Hills, MI; and Inter-University Consortium for Political and Social Research, Ann Arbor, MI, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ADC intends to file additional written notifications disclosing all changes in membership.

On November 11, 2021, ADC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 22, 2021 (86 FR 72628).

The last notification was filed with the Department on October 11, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 8, 2022 (87 FR 67491).

Suzanne Morris,

Deputy Director, Civil, Enforcement Operations Antitrust Division.

[FR Doc. 2023–05502 Filed 3–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Grid Alliance, Inc.

Notice is hereby given that, on January 10, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Grid Alliance, Inc. (''OGA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 3nets Inc., Santa Clara, CA; BLC Communication and Security Systems, Ankara, TURKEY; Lytn, Montpellier, FRANCE; and Juice Technologies Inc., DBA Juice Labs, Lafayette, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OGA intends to file additional written notifications disclosing all changes in membership.

On March 31, 2022, OGA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 12, 2022 (87 FR 29180).

The last notification was filed with the Department on October 31, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 23, 2022 (87 FR 71678).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–05506 Filed 3–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—UHD Alliance, Inc.

Notice is hereby given that, on January 11, 2023 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), UHD Alliance, Inc. (''UHD Alliance'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Roku, Inc., San Jose, CA has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UHD Alliance intends to file additional written notifications disclosing all changes in membership.

On June 17, 2015, UHD Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 17, 2015 (80 FR 42537).

The last notification was filed with the Department on November 9, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 24, 2023(88 FR 4211).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–05519 Filed 3–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Occupational Exposure to Noise Standard (29 CFR 1910.95)

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety & Health Administration (OSHA)-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 April 17, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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 purpose of the Occupational Noise Standard and its information collection requirements are to provide protection to workers from adverse health effects associated with occupational exposure to noise. The standard requires employers to establish and maintain accurate records of worker exposure to noise and audiometric testing performed in compliance with this standard. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 12, 2022 (87 FR 78127).

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.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Occupational Exposure to Noise Standard (29 CFR 1910.95).

OMB Control Number: 1218–0048.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 28,3524.

Total Estimated Number of Responses: 32,081,096.

Total Estimated Annual Time Burden: 2,368,281 hours.

Total Estimated Annual Other Costs Burden: $39,771,368.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2023–05422 Filed 3–16–23; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Geosciences (1755).

Date and Time: April 13, 2023; 10:00 a.m.–4:30 p.m. EDT; April 14, 2023; 10:00 a.m.–4:00 p.m. EDT.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314; In-person and Virtual via Zoom.

Registration for the meeting will be available prior to the meeting date. Both the agenda and the registration link will be located on the GEO AC website at *https://www.nsf.gov/geo/advisory.jsp.*

Type of Meeting: Open.

Contact Person: Melissa Lane, National Science Foundation, Room C 8000, 2415 Eisenhower Avenue, Alexandria, Virginia 22314; Phone 703–292–8500.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight on support for geoscience research and education including atmospheric, geospace, earth, ocean, and polar sciences.

Agenda

April 13, 2023

- Joint Session with Advisory Committee for the Office of Polar Programs (AC OPP)
  - Geosciences Directorate Update from Assistant Director for Geosciences
  - Discussion of the Pending AC GEO–AC OPP Merger and Future Directions
  - Update on Sexual Assault/Harassment Prevention and Response
  - Briefing from Director of the Office of Legislative and Public Affairs
  - Meeting with the NSF Director and Chief Operating Officer

April 14, 2023

- Discussion of NSF Advisory Committee on Environmental Research and Education (AC ERE) white paper on minimizing the impacts for research on the environment
- Update on the International Ocean Drilling Program
- Presentation on GEO Facilities
- Presentation by Sharon Mosher, U-Texas Austin, on Graduate Geoscience Education
- Action Items/Planning for Fall 2023 Meeting

Dated: March 13, 2023.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2023–05440 Filed 3–16–23; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's Committee on Strategy's Subcommittee on Technology, Innovation and Partnerships hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business pursuant to the NSF Act and the Government in the Sunshine Act.

TIME AND DATE: Wednesday, March 22, 2023, from 10:30–11:30 a.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: Subcommittee Chair's Opening Remarks; Goals for the inaugural Type 2 competition portfolio and discussion of portfolio construction strategy, process, and risk.

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.*

Christopher Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2023–05651 Filed 3–15–23; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 05200050 and 99902078; NRC–2023–0027]

NuScale Power, LLC

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard design approval application; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing public notice of the receipt and availability of a standard design approval (SDA) application from NuScale Power, LLC (NuScale) for a Small Modular Reactor (SMR) design. The SDA application was submitted in a number of transmittals between the period of November 23, 2022, and December 31, 2022.

DATES: The SDA application referenced in this notice was available on January 1, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0027 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0027. Address questions about Docket IDs to Stacy *Schumann@nrc.gov;* 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, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The NuScale application is available in ADAMS under Package Accession No. ML22339A066.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. 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: Getachew Tesfaye, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8013, email: *Getachew.Tesfaye@nrc.gov.*

SUPPLEMENTARY INFORMATION: By letter dated November 21, 2022 (ADAMS Accession No. ML22325A349), NuScale informed the NRC of its intent to submit an SDA application in stages, along with supporting technical reports, by December 31, 2022. By letter dated November 23, 2022, NuScale submitted the first part of its application (non-public, withheld pursuant to 10 CFR 2.390) for a standard design approval of the NuScale US460 SMR design, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, and part 52, subpart E, of title 10 of the *Code of Federal Regulations* (10 CFR), ''Licenses, Certifications, and Approvals for Nuclear Power Plants.'' Subsequently, NuScale submitted the remaining portions of its application in stages, between November 29, 2022, and December 31, 2022. The SDA application is available in ADAMS under Package Accession No. ML22339A066.

As described in the November 21, 2022, letter, the application contains the final safety analysis report (FSAR) chapters and parts thereof. Supporting technical reports are cited throughout the application, some of which are attached to the corresponding FSAR chapter; other technical reports cited in the application are available as standalone documents in ADAMS, if publicly available. Following these submittals, NuScale submitted additional supporting licensing topical reports (LTRs), which were required to be submitted before the SDA application could be accepted for review. By January 8, 2023, NuScale submitted these LTRs to the NRC. The NRC staff is currently reviewing the application and supporting information to determine if it is sufficiently complete to be acceptable for docketing and for commencement of the staff's detailed safety review.

The NuScale US460 SMR is a pressurized-water reactor. The design is based on the Multi-Application Small Light Water Reactor developed at Oregon State University in the early 2000's. The NuScale US460 SMR is a natural circulation light-water reactor with the reactor core and helical coil steam generator located in a common reactor vessel in a cylindrical steel containment. The NuScale power module is partly immersed in water in a safety related pool. The reactor pool is located below grade and is designed to hold up to six power modules. Each NuScale SMR has a rated thermal output of 250 megawatts thermal and an electrical output of 77 megawatts electric (MWe); accordingly, a plant containing six modules would have a total capacity of 462 MWe. The acceptability of the tendered application for docketing and other matters relating to the request will be the subject of subsequent **Federal Register** notices.

Dated: March 13, 2023.

For the Nuclear Regulatory Commission.

Getachew Tesfaye,

Senior Project Manager, New Reactor Licensing Branch, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–05457 Filed 3–16–23; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–505, OMB Control No. 3235–0562]

Submission for OMB Review; Comment Request; Extension: Rule 17d–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 17(d) (15 U.S.C. 80a–17(d)) of the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) (the ''Act'') prohibits first- and second-tier affiliates of a fund, the fund's principal underwriters, and affiliated persons of the fund's principal underwriters, acting as principal, to effect any transaction in which the fund or a company controlled

by the fund is a joint or a joint and several participant in contravention of the Commission's rules. Rule 17d–1 (17 CFR 270.17d–1) prohibits an affiliated person of or principal underwriter for any fund (a ''first-tier affiliate''), or any affiliated person of such person or underwriter (a ''second-tier affiliate''), acting as principal, from participating in or effecting any transaction in connection with a joint enterprise or other joint arrangement in which the fund is a participant, unless prior to entering into the enterprise or arrangement ''an application regarding [the transaction] has been filed with the Commission and has been granted by an order.'' In reviewing the proposed affiliated transaction, the rule provides that the Commission will consider whether the proposal is (i) consistent with the provisions, policies, and purposes of the Act, and (ii) on a basis different from or less advantageous than that of other participants in determining whether to grant an exemptive application for a proposed joint enterprise, joint arrangement, or profit-sharing plan.

Rule 17d–1 also contains a number of exceptions to the requirement that a fund must obtain Commission approval prior to entering into joint transactions or arrangements with affiliates. For example, funds do not have to obtain Commission approval for certain employee compensation plans, certain tax-deferred employee benefit plans, certain transactions involving small business investment companies, the receipt of securities or cash by certain affiliates pursuant to a plan of reorganization, certain arrangements regarding liability insurance policies and transactions with ''portfolio affiliates'' (companies that are affiliated with the fund solely as a result of the fund (or an affiliated fund) controlling them or owning more than five percent of their voting securities) so long as certain other affiliated persons of the fund (*e.g.,* the fund's adviser, persons controlling the fund, and persons under common control with the fund) are not parties to the transaction and do not have a ''financial interest'' in a party to the transaction. The rule excludes from the definition of ''financial interest'' any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material, as long as the board records the basis for its finding in their meeting minutes.

Thus, the rule contains two filing and recordkeeping requirements that constitute collections of information. First, rule 17d–1 requires funds that wish to engage in a joint transaction or arrangement with affiliates to meet the procedural requirements for obtaining exemptive relief from the rule's prohibition on joint transactions or arrangements involving first- or second-tier affiliates. Second, rule 17d–1 permits a portfolio affiliate to enter into a joint transaction or arrangement with the fund if a prohibited participant has a financial interest that the fund's board determines is not material and records the basis for this finding in their meeting minutes. These requirements of rule 17d–1 are designed to prevent fund insiders from managing funds for their own benefit, rather than for the benefit of the funds' shareholders.

Based on an analysis of past filings, Commission staff estimates that 43 funds file applications under section 17(d) and rule 17d–1 per year. The staff understands that funds that file an application generally obtain assistance from outside counsel to prepare the application. The cost burden of using outside counsel is discussed below. The Commission staff estimates that each applicant will spend an average of 75 hours to comply with the Commission's applications process. The Commission staff therefore estimates the annual burden hours per year for all funds under rule 17d–1's application process to be 3,225 hours at a cost of $1,428,675.[1] The Commission, therefore, requests authorization to reduce the inventory of total burden hours per year for all funds under rule 17d–1 from the current authorized burden of 3,542 hours to 3,225 hours. The reduction is due to a decrease in the Commission's estimate of the number of internal annual burden hours per application for exemptions under rule 17d–1.

As noted above, the Commission staff understands that funds that file an application under rule 17d–1 generally use outside counsel to assist in preparing the application. The staff estimates that, on average, funds spend an additional $53,100 for outside legal services in connection with seeking Commission approval of affiliated joint transactions. Thus, the staff estimates that the total annual cost burden imposed by the exemptive application requirements of rule 17d–1 is $2,283,300.[2]

We estimate that funds currently do not rely on the exemption from the term ''financial interest'' with respect to any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material. Accordingly, we estimate that annually there will be no transactions under rule 17d–1 that will result in this aspect of the collection of information.

Based on these calculations, the total annual hour burden is estimated to be 3,225 hours and the total annual cost burden is estimated to be $2,283,300.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with these collections of information requirement is necessary to obtain the benefit of relying on rule 17d–1. Responses will not be kept confidential. 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 control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by April 17, 2023 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: March 13, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–05430 Filed 3–16–23; 8:45 am]

BILLING CODE 8011–01–P

[1] This estimate is based on the following calculation: 75 hours per applicant × $433 wage rate = $33,225. $33,225 × 43 exemption requests per year = $1,428,675. This blended rate is based on the following: $580 (hourly rate for a chief compliance officer); $510 (hourly rate for an assistant general counsel); and $238 (hourly rate for a paralegal). The Commission's estimates of the relevant wage rates are based on the salary information for the securities industry compiled by Securities Industry and Financial Markets Association's Office Salaries in the Securities Industry 2013, as modified by Commission staff (''SIFMA Wage Report''). The estimated figures are modified by firm size, employee benefits, overhead, and adjusted to account for the effects of inflation.

[2] This estimated burden is based on the estimated wage rate of $531/hour, for 100 hours, for outside legal services. The Commission's estimates of the relevant wage rates for external time costs, such as outside legal services, take into account staff experience, a variety of sources including general information websites, and adjustments for inflation. The estimate is based on the following calculation: $53,100 × 43 exemption requests per year = $2,283,300.

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–570, OMB Control No. 3235–0632]

Submission for OMB Review; Comment Request; Extension: Rule 12h–1(f)

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 12h–1(f) (17 CFR 240.12h–1(f)) under the Securities Exchange Act of 1934 (''Exchange Act'') provides an exemption from the Exchange Act Section 12(g) registration requirements for compensatory employee stock options of issuers that are not required to file periodic reports under the Exchange Act. The information required under Exchange Act Rule 12h–1 is not filed with the Commission. Exchange Act Rule 12h–1(f) permits issuers to provide the required information to the option holders either by: (i) physical or electronic delivery of the information; or (ii) written notice to the option holders of the availability of the information on a password-protected internet site. We estimate that it takes approximately 2 burden hours per response to prepare and provide the information required under Rule 12h–1(f) and it is prepared and provided by approximately 40 respondents. We estimate that 25% of the 2 hours per response (0.5 hours per response) is prepared by the company for a total annual reporting burden of 20 hours (0.5 hours per response × 40 responses).

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by April 17, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: March 13, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–05437 Filed 3–16–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97127; File No. SR–BOX–2023–08]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7110 (Order Entry) and Rule 7130 (Execution and Price/Time Priority) Regarding Availability of Identity of Options Participants

March 13, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2023, BOX Exchange LLC (''BOX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by BOX. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 7110 (Order Entry) and Rule 7130 (Execution and Price/Time Priority) to codify in the BOX Rulebook when the identity of Options Participants is available. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 Rule 7110 (Order Entry) and Rule 7130 (Execution and Price/Time Priority) to codify in the BOX Rulebook when the identity of Options Participants is available. Specifically, the Exchange is proposing to codify in the BOX Rulebook that the contra party Options Participants identification number (''Participant ID'') is available to all Participants in their post trade execution reports. The Exchange notes that other exchanges also provide such contra party information.[3]

Current Rule 7110(f) provides that the identity of Options Participants who submit orders to the Trading Host will remain anonymous to market participants at all times, except orders submitted through the Directed Order process, certain exposed orders as set forth in 7130(b)(3)(iii), during error resolution or through the normal clearing process as set forth in Rule 7130. The Exchange proposes to amend Rule 7110 to codify that the contra party Options Participant ID is provided on the execution reports that are sent to each Participant that is party to a trade. Specifically, the Exchange is proposing to amend the language within 7110(f) to provide that after execution, the identity of Options Participants is available during error resolution, through the normal clearing process as set forth in Rule 7130, and on the execution reports sent to each Participant that is party to a trade. As part of the proposed change,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Cboe Exchange, Inc. (''Cboe Options'') Rule 6.2, Cboe BZX Exchange, Inc. (''BZX Options'') Rule 21.10, Cboe C2 Exchange, Inc. (''C2 Options'') Rule 6.2, and Cboe EDGX Exchange, Inc. (''EDGX Options'') Rule 21.10 provide for the inclusion of the contra party executing firm ID within transaction reports. The NYSE Pillar Gateway FIX Protocol Specification details the provision of contra party Firm Identifier information. See NYSE Pillar Gateway FIX Protocol Specification, available at: *https://www.nyse.com/publicdocs/nyse/NYSE_Pillar_Options_Gateway_FIX_Protocol_Specification.pdf.* It is also the Exchange's understanding from discussions with market participants that additional exchanges provide similar post-trade information.

the Exchange is reorganizing Rule 7110(f) so that the situations when Participant information is available post execution are grouped together, which are the situations stated above.

The Exchange is also proposing to add language within Rule 7130 to cite back to the proposed exemption within Rule 7110(f) to make it clear that, for each trade, contra party details will be made available after the trade is executed to Options Participants that were party to the trade through the normal clearing process and as otherwise provided within Rule 7110(f).

The Exchange currently sends out execution reports containing contra party information, and the Exchange believes codifying this information in the Rules will provide more transparency to market participants regarding these execution reports. The proposed rule change is consistent with current Exchange and options industry practices including the fact that clearing information available through The Options Clearing Corporation (''OCC'') provides contra party information. As indicated above, the Exchange believes that the proposed rule change is consistent with current rules and practices in place at other options exchanges.[4]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[5] in general, and Section 6(b)(5) of the Act,[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the Exchange currently sends out post trade execution reports containing contra party information, and the Exchange believes that codifying this information in the Rules will provide more transparency to market participants regarding these execution reports which will remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes the proposal will serve to promote just and equitable principles of trade, 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 because it will benefit investors by providing more transparency on when the identity of Options Participants is available and clarifying what is provided within these execution reports. The Exchange currently provides such contra party Options Participant IDs within execution reports and believes that aligning its rules with current practices will benefit investors by providing more transparency to market participants regarding what is provided within these execution reports.

Based on the foregoing, the Exchange believes the proposed changes to Rule 7110 and Rule 7130 are consistent with Section 6(b)(5) of the Act[7] in particular, in that they are designed to foster cooperation and coordination with persons engaged in clearing, settling, processing information with respect to, and facilitating transactions in securities. In summary, the proposal will help protect free and open market by codifying in the BOX Rulebook that the contra party Options Participant ID is available to all Participants in their post trade execution reports. The Exchange notes that this contra party information is also available on other options exchanges.[8] Additionally, the proposal would not permit unfair discrimination because the contra party Options Participant ID is already available to all Participants in their post trade execution reports and the Exchange is merely proposing to codify this into the BOX Rulebook.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the proposed rule change is substantially similar to the rules and practices of other options exchanges.[9]

The proposed rule change is intended to codify in the BOX Rulebook that the contra party Options Participant ID is available to all Participants in their post trade execution. The Exchange began providing this contra party information for Participants within execution reports in response to Participant interest and requests for such information. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition, as the rule change is only intended to codify in the BOX Rulebook that the contra party Options Participant ID is available to all Participants in their post trade execution reports. The Exchange believes that this proposal is consistent with the rules and practices in place at other options exchanges.[10] Additionally, the clearing information available through the OCC provides contra party information.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition, as the rule change seeks to codify in the BOX Rulebook that contra party information is included within execution reports, which are provided to all Participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. BOX requested that the Commission waive the operative delay to permit BOX to codify within its Rulebook the inclusion of contra party information in execution reports, which BOX represents is consistent with current Exchange and option industry practices. The

[4] *Id.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(5).

[8] *See supra,* note 3.

[9] *Id.*

[10] *Id.*

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest as the proposed rule change does not raise new or novel issues. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[13]

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2023–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2023–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2023–08, and should be submitted on or before April 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–05446 Filed 3–16–23; 8:45 am]

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[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97125; File No. SR–NYSEAMER–2023–17]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Proposed New Rule 980NYP and Conforming Amendments to Rule 935NY

March 13, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2023, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes new Rule 980NYP (Electronic Complex Order Trading) to reflect the implementation of the Exchange's Pillar trading technology on its options market and to make conforming amendments to Rule 935NY (Order Exposure Requirements). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

Background

The Exchange plans to transition its options trading platform to its Pillar technology platform. The Exchange's affiliated options exchange, NYSE Arca, Inc. (''NYSE Arca'' or ''Arca Options'') is currently operating on Pillar, as are the Exchange's national securities exchange affiliates' cash equity markets.[3] For this transition, the Exchange proposes to use the same Pillar technology already in operation on Arca Options.[4] In doing so, the Exchange will be able to offer not only common specifications for connecting to both of its options markets, but also common trading functions. The Exchange plans to roll out the new technology platform over a period of time based on a range of symbols beginning on October 23, 2023.[5]

In this regard, the Exchange recently filed a proposal to add new rules to reflect the priority and allocation of

[3] The Exchange's national securities exchange affiliates' cash equity markets include: the New York Stock Exchange LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Chicago, Inc. (collectively, the ''NYSE Equities Exchanges'').

[4] *See* Arca Options Rule 6.91P–O. *See also* Securities Exchange Act Release No. 92563 (August 4, 2021), 86 FR 43704 (August 10, 2021) (Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Adopt New Exchange Rule 980NYP, regarding complex order trading on Pillar) (''Arca Options Approval Order'').

[5] *See* Trader Update, January 30, 2023 (announcing Pillar Migration Launch date of October 23, 2023 for the Exchange), *available here, https://www.nyse.com/trader-update/history#110000530919.*

options on the Exchange once Pillar is implemented.[6] The current proposal sets forth how Electronic Complex Orders[7] would trade on the Exchange once Pillar is implemented. As noted in the American Pillar Priority Filing, as the Exchange transitions to Pillar, certain rules would continue to be applicable to symbols trading on the current trading platform, but would not be applicable to symbols that have transitioned to trading on Pillar.[8] Consistent with the American Pillar Priority Filing, proposed Rule 980NYP would have the same number as the current Electronic Complex Order Trading rule, but with the modifier ''P'' appended to the rule number. Current Rule 980NY, governing Electronic Complex Order Trading, would remain unchanged and continue to apply to any trading in symbols on the current system. Proposed Rule 980NYP would govern Electronic Complex Orders for trading in options symbols migrated to the Pillar platform.

Proposed Rule 980NYP would (1) use Pillar terminology; and (2) introduce new functionality for Electronic Complex Order trading (*e.g.,* adopting a DBBO and Away Market Deviation price check as well as enhancing the opening process for ECOs as described below), each of which proposed changes would align the Exchange with both the terminology used, and the functionality described, in Arca Options Rule 6.91P–O.

Finally, as discussed in the American Pillar Priority Filing, the Exchange will announce by Trader Update when symbols are trading on the Pillar trading platform. The Exchange intends to transition Electronic Complex Order trading on Pillar at the same time that single-leg trading is transitioned to Pillar.

Proposed Rule 980NYP: Electronic Complex Order Trading

Current Rule 980NY (Electronic Complex Order Trading) specifies how the Exchange processes Electronic Complex Orders submitted to the Exchange. The Exchange proposes new Rule 980NYP to establish how such orders would be processed after the transition to Pillar. To promote clarity and transparency, the Exchange proposes to add a preamble to current Rule 980NY specifying that it would not be applicable to trading on Pillar.

As discussed in greater detail below and unless otherwise specified herein, the Exchange is not proposing fundamentally different functionality regarding how Electronic Complex Orders would trade on Pillar than is currently available on the Exchange. However, with Pillar, the Exchange would use Pillar terminology to describe functionality that is not changing and also introduce certain new or updated functionality for Electronic Complex Orders (*e.g.,* enhancing the opening auction process, including introducing the ''ECO Auction Collars'') that will also be available for outright options trading on the Pillar platform.

Definitions. Proposed Rule 980NYP(a) would set forth the definitions applicable to trading on Pillar under the new rule. The proposed definitions are identical to how these terms are defined in Arca Options Rule 6.91P–O(a), except that the proposed Rule includes a definition for ''Complex BBO,'' as described below.

• Proposed Rule 980NYP(a)(1) would define the term ''Away Market Deviation'' as the difference between the Exchange BB (BO) for a series and the ABB (ABO) for that same series when the Exchange BB (BO) is lower (higher) than the ABB (ABO).[9] The maximum allowable Away Market Deviation is the greater of $0.05 or 5% below (above) the ABB (ABO) (rounded down to the nearest whole penny). As further proposed, no ECO on the Exchange would execute at a price that would exceed the maximum allowable Away Market Deviation on any component of the complex strategy. The maximum allowable Away Market Deviation is designed to protect market participants from having their complex strategies execute at prices that are significantly outside of (and inferior to) the market for the individual legs. The proposed functionality provides the Exchange with flexibility in determining the acceptable execution range by allowing that it be calculated using either a percentage amount or a dollar amount. This proposed risk protection is not new or novel as it is identical to Arca Options Rule 6.91P–O(a)(1) and is also available on other options exchanges.[10] As discussed further below, the Exchange proposes that its calculation of the DBBO (for each leg of a complex strategy) as well as trading of ECOs with the leg markets would be bound by the maximum allowable Away Market Deviation as an additional protection against ECOs being executed on the Exchange at prices too far away from the current market. This proposed definition is new and would promote clarity and transparency.

• Proposed Rule 980NYP(a)(2) would define the term ''Complex NBBO'' to mean the derived national best net bid and derived national best net offer for a complex strategy calculated using the NBB and NBO for each component leg of a complex strategy. This definition is based on current Rule 900.2NY, without any substantive differences and is also identical to Arca Options Rule 6.91P–O(a)(2).[11]

○ Proposed Rule 980NYP(a)(2)(A) would define the term ''Complex BBO'' to mean the complex order(s) to buy (sell) with the highest (lowest) net working price (per proposed Rule 964NYP(a)(3)) on each side of the Consolidated Book for the same complex order strategy. This definition is based on current Rule 900.2NY(a), without any substantive differences.[12]

[6] *See* SR–NYSEAMER–2023–16, filed on February 27, 2023 (proposal to adopt new Rules 964NYP (Order Ranking, Display, and Allocation), 964.1NYP (Directed Orders and DOMM Quoting Obligations), and 964.2NYP (Participation Entitlement of Specialists, e-Specialists, and Primary Specialist) as well as to add or modify Rule 900.2NY (Definitions) to address the migration to Pillar) (referred to herein as the ''American Pillar Priority Filing''). For avoidance of doubt, references to Rule 964NYP refer to the Exchange's proposed new priority and allocation rule for trading on Pillar, as described in the American Pillar Priority Filing.

[7] The term ''Electronic Complex Order'' is currently defined in the preamble to Rule 980NY to mean any Complex Order, as defined in Rule 900.3NY(e)(e) that is entered into the System.

[8] *See* American Pillar Priority Filing (providing that, once a symbol is trading on the Pillar trading platform, a rule with the same number as a rule with a ''P'' modifier would no longer be operative for that symbol and the Exchange would announce by Trader Update when symbols are trading on the Pillar trading platform); *see also supra* note 5, Arca Options Approval Order (same).

[9] In the American Pillar Priority Filing, the Exchange proposes to define the (new) term ''Away Market BBO ('ABBO')'' as referring to the best bid(s) or offer(s) disseminated by Away Markets and calculated by the Exchange based on market information the Exchange receives from OPRA and the terms ''ABB'' and ''ABO'' as referring to the best Away Market bid and best Away Market offer, respectively. *See id.* (defining Away Market BBO in proposed Rule 900.2NYP).

[10] *See, e.g.,* BOX Options Exchange LLC (''BOX'') Rule 7240(b)(3)(iii)(A) (providing that each leg of a complex strategy trade equal to or better than the ''Extended cNBBO,'' which has a default setting (per Rule 7240(a)(5)) of 5% of the cNBB or cNBO (per Rule 7240(a)(2) and (4), respectively) as applicable, or $0.05); Nasdaq ISE, LLC (''Nasdaq ISE''), Options 3, Section 16 (a) (providing that, in regard to ''Price limits for Complex Orders, ''[n]otwithstanding, the System will not permit any leg of a complex strategy to trade through the NBBO for the series or any stock component by a configurable amount calculated as the lesser of (i) an absolute amount not to exceed $0.10, and (ii) a percentage of the NBBO not to exceed 500%, as determined by the [ISE] Exchange on a class, series or underlying basis'').

[11] *See* Rule 900.2NY (defining Complex NBBO as referring to ''the NBBO for a given complex order strategy as derived from the national best bid and national best offer for each individual component series of a Complex Order'').

[12] *See* Rule 900.2NY(a) (defining Complex BBO as referring to ''the complex orders with the lowest-priced (*i.e.,* the most aggressive) net debit/credit price on each side of the Consolidated Book for the same complex order strategy'').

• Proposed Rule 980NYP(a)(3) would define ''Complex Order Auction'' or ''COA'' to mean an auction of an ECO as set forth in proposed Rule 980NYP(f) (discussed below). This definition is based on the title of paragraph (e) of current Rule980NY, which sets forth the COA Process for ECOs without any substantive differences. Proposed Rule 980NYP(a)(3) would also state that the terms defined in paragraphs (a)(3)(A)–(D) would be used for purposes of a COA.

Proposed Rule 980NYP(a)(3)(A) would define a ''COA Order'' to mean an ECO that is designated by the ATP Holder as eligible to initiate a COA. This definition is based on the definition of a ''COA-eligible order'' as set forth in current Rule 980NY(e)(1) and (e)(1)(i), with a difference that the proposed definition would not require that an option class be designated as COA-eligible because all option classes that trade on Pillar would be COA-eligible.

Proposed Rule 980NYP(a)(3)(B) would define the term ''Request for Response'' or ''RFR'' to refer to the message disseminated to the Exchange's proprietary complex data feed announcing that the Exchange has received a COA Order and that a COA has begun. As further proposed, the definition would provide that each RFR message would identify the component series, the price, the size and side of the market of the COA Order. This definition is based on the description of RFR in Rule 980NY(e)(3) without any substantive differences. The Exchange proposes a clarifying difference to make clear that RFR messages would be sent over the Exchange's proprietary complex data feed, which is based on current functionality.

Proposed Rule 980NYP(a)(3)(C) would define the term ''RFR Response'' to mean any ECO received during the Response Time Interval (defined below) that is in the same complex strategy, on the opposite side of the market of the COA Order that initiated the COA, and marketable against the COA Order.[13] This definition is based in part on the description of RFR Responses in Rule 980NY(e)(5). However, unlike the current definition, an RFR Response would not have a time-in-force contingency for the duration of the COA. Instead, the Exchange would consider any ECOs received during the Response Time Interval (defined below) that are marketable against the COA Order as an RFR Response. As described below, the Exchange proposes to define separately the term ''COA GTX Order,'' which would be more akin to the current definition of RFR Response. In addition, the proposed definition omits the current rule description that an RFR Response may be entered in $0.01 increments or that such responses may be modified or cancelled because these features are applicable to all ECOs and therefore is not necessary to separately state in connection with RFR Responses.

Proposed Rule 980NYP(a)(3)(D) would define the term ''Response Time Interval'' to mean the period of time during which RFR Responses for a COA may be entered and would provide that the Exchange would determine and announce by Trader Update the length of the Response Time Interval; provided, however, that the duration of the Response Time Interval would not be less than 100 milliseconds and would not exceed one (1) second. This definition is based in part on the description of Response Time Interval in Rule 980NY(e)(4), with a difference that the Exchange proposes to reduce the minimum time from 500 milliseconds to 100 milliseconds. The proposal to establish a minimum duration for a COA is identical to the minimum time frame allowed for a COA per Arca Options Rule 6.91P–O(a)(4) and is consistent with the minimum auction length for the Exchange's electronic-paired auctions (*i.e.,* the CUBE Auction) as well as for auctions on other markets.[14] Given the fact that the Exchange has (for years) offered the CUBE Auction with a Response Time Interval of at least 100 milliseconds and the same time interval is applicable to COAs on Arca Options (per Rule 6.91P–O(a)(3)(D)), the Exchange believes that the proposed Response Time Interval of at least this length would provide ATP Holders adequate time to respond to a COA.[15]

• Proposed Rule 980NYP(a)(4) would define the term ''Complex strategy'' to mean a particular combination of leg components and their ratios to one another. The proposed definition would further provide that new complex strategies can be created when the Exchange receives either a request to create a new complex strategy or an ECO with a new complex strategy. This proposed definition is new and is identical to how this term is defined in Arca Options Rule 6.91P–O(a)(4). Furthermore, this proposed definition is consistent with how this concept is defined on other options exchanges and would promote clarity and transparency.[16]

• Proposed Rule 980NYP(a)(5) would define the term ''DBBO'' to address situations where it is necessary to derive a (theoretical) bid or offer for a particular complex strategy. As proposed, ''DBBO'' would mean the derived best net bid (''DBB'') and derived best net offer (''DBO'') for a complex strategy. The bid (offer) price used to calculate the DBBO on each leg would be the Exchange BB (BO)[17] (if available), bound by the maximum allowable Away Market Deviation (as defined above). If a leg of a complex strategy does not have an Exchange BB (BO), the bid (offer) price used to calculate the DBBO would be the ABB (ABO) for that leg. Thus, the ''bid (offer)'' prices used to calculate the DBBO would be based on the Exchange BB (BO) for each leg when available, and, absent an Exchange BB (BO) for a given leg, the ABB (ABO). The proposed definition would also provide that the DBBO would be updated as the Exchange BBO or ABBO, as applicable, is updated.

Proposed Rule 980NYP(a)(5)(A) would provide further detail about how the DBBO would be derived when, for a leg, there is no Exchange BB (BO) and no ABB (ABO). As proposed, in such circumstances, the bid (offer) price used to calculate the DBBO would be the offer (bid) price for that leg (*i.e.,* Exchange BO (BB), bound by the maximum allowable Away Market Deviation (or the ABO (ABB) for that leg if no Exchange BO (BB) is available)),

[13] The term ''marketable'' is defined in Rule 900.2NY as ''for a Limit Order, the price matches or crosses the NBBO on the other side of the market. Market Orders are always considered marketable.''

[14] *See, e.g.,* Rules 971.1NY(c)(2)(B) (providing that for a Customer Best Execution Auction ''[t]he minimum/maximum parameters for the Response Time Interval will be no less than 100 milliseconds and no more than one (1) second'') and 971.2NY(c)(1)(B) (same); Cboe Exchange Inc. (''Cboe'') Rule 5.33(d)(3) (providing that Cboe ''determines the duration of the Response Time Interval on a class-by-class basis, which may not exceed 3000 milliseconds'').

[15] *See, e.g.,* Securities Exchange Act Release Nos. 82498 (January 12, 2018), 83 FR 2823 (January 19, 2018) (SR–NYSEAmer–2017–26) (Notice of filing and immediate effectiveness of proposed rule change to reduce the response time interval for a CUBE Auction to no less than 100 milliseconds); 83384 (June 5, 2018), 83 FR 27061 (June 11, 2018) (SR–NYSEAMER–2018–05) (Order approving Complex CUBE functionality, including Rule 971.2NY(c)(1)(B), providing that ''[t]he minimum/maximum parameters for the Response Time Interval will be no less than 100 milliseconds and no more than one (1) second'')).

[16] *See, e.g.,* Cboe Rule 5.33(a) (defining ''complex strategy'' as ''a particular combination of components and their ratios to one another'' and further providing that ''[n]ew complex strategies can be created as the result of the receipt of a complex instrument creation request or complex order for a complex strategy that is not currently in the System''); MIAX Options Exchange (''MIAX'') Rule 518(a)(6) (same).

[17] The term BBO when used with respect to options traded on the Exchange means ''the best displayed bid or best displayed offer on the Exchange.'' *See* Rule 900.2NY.

minus (plus) ''one collar value,'' per proposed Rule 900.3NY(a)(4)(C); or (ii) $0.01, if the offer is equal to or less than one collar value.[18] The proposed values used to generate a DBBO in the absence of local or Away Market interest would be consistent with the values that the Exchanges proposes to use in the Trading Collars for single-leg orders.[19] In addition, such values are within the current parameters for determining whether a trade is an Obvious Error or Catastrophic Error.[20] This proposed definition of the DBBO is new and is based, in part, on the current definition of Derived BBO as set forth in Rule 900.2NY.[21] Furthermore, this definition is identical to how this term is defined in Arca Options Rule 6.91P–O(a)(4)(C) and is also consistent with how this concept is defined on other options exchanges.[22] The Exchange believes that providing an alternative means of calculating the DBBO (*i.e.,* by looking to the contra-side best bid (offer) in the absence of same-side interest) would benefit market participants as it should increase opportunities for trading. For example, absent this proposed functionality, the Exchange would not be able to trade complex strategies when, for at least one leg of such strategy, the Exchange has no displayed interest on one or both sides of such component leg. Allowing the Exchange to look to the ABBO to calculate the DBBO in such circumstances would increase trading opportunities for ECOs to the benefit of all market participants. The Exchange believes that the additional detail about how the DBBO would be calculated in the absence of an Exchange BB (BO) and ABB (ABO), including that it would be rounded down to the nearest whole penny, would promote clarity and transparency. As noted above and herein, the Exchange believes that binding the DBBO (when calculated using the Exchange BBO) to the maximum allowable Away Market Deviation would help prevent ECOs from executing on the Exchange at prices too far away from the current market.

Proposed Rule 980NYP(a)(5)(B) would provide that, if for a leg of a complex strategy, there is neither an Exchange BBO nor an ABBO, the Exchange would not allow the complex strategy to trade until, for that leg, there is either an Exchange BB or BO, or an ABB or ABO, on at least one side of the market. The Exchange believes that preventing a complex strategy from trading when, for a leg, there is no reliable pricing indication—either on the Exchange or in Away Markets, would benefit market participants by preventing potentially erroneous executions. Moreover, including this additional detail in the proposed rule about when a complex strategy would not trade would benefit market participants as it would promote clarity and transparency in Exchange rules regarding ECO trading. This functionality is also identical to Arca Options Rule 6.91P–O (a)(5)(B).

Proposed Rule 980NYP(a)(5)(C) would provide that if the best bid and offer prices (when not based solely on the Exchange BBO) for a component leg of a complex strategy are locked or crossed, the Exchange would not allow an ECO for that strategy to execute against another ECO until the condition resolves. The Exchange notes that, as described above, the DBBO may be calculated using leg prices derived either exclusively from, or a combination of, the Exchange BBO, the ABBO, or the Exchange BBO as adjusted to be priced within the maximum allowable Away Market Deviation. As such, if the best bid and offer prices (when not based solely on Exchange BBO) for a component leg of a complex strategy are locked or crossed, a DBBO calculated when using those prices could be erroneous.[23] Accordingly, the Exchange believes that it is appropriate to not permit an ECO to execute against another ECO under these circumstances until the locked or crossed market resolves. The Exchange believes preventing ECO-to-ECO trading in this circumstance would benefit market participants by preventing potentially erroneous ECO executions. Moreover, including this additional detail in the proposed rule about when an ECO would be prevented from trading with another ECO would benefit market participants as it would promote clarity and transparency in Exchange rules regarding ECO trading. This functionality is also identical to Arca Options Rule 6.91P–O(a)(5)(C).

Further, per proposed Rule 980NYP(a)(5)(C), if an Away Market quote updates to lock or cross the current Exchange BB (BO) or ABB (ABO) for a component leg of a complex strategy, the Exchange would allow an ECO for that strategy to execute against leg market interest on the Exchange. Allowing an eligible ECO to execute against leg market interest in these circumstances is consistent with the way single-leg orders trade. This functionality is also identical to Arca Options Rule 6.91P–O(a)(5)(C). In this regard, the Exchange notes that, to the extent that leg prices are locked or crossed as a result of updates to the ABBO, such updates do not prevent resting leg market interest from trading at its resting price with all eligible contra-side interest, which includes incoming ECOs in the same complex strategy.[24] Moreover, to the extent that an ECO trades with leg market interest in a complex strategy when interest in the leg markets is crossed, such executions are not deemed as trade-throughs.[25] As such, the Exchange believes that allowing an ECO to trade with leg market interest in this circumstance would maximize the execution opportunities of such ECO while respecting price-time priority of the leg markets.

• Proposed Rule 980NYP(a)(6) would define the term ''ECO Order

[18] Proposed Rule 900.3NYP (Orders and Modifiers) will be described in a separate rule filing regarding the operation of orders and quotes on Pillar (the ''Pillar Order Type'' filing). Proposed Rule 900.3NYP(a)(4)(C) would describe how Trading Collars are calculated on Pillar. The Exchange represents that this functionality would operate the same way it currently operates per Arca Options Rule 6.62P–O(a)(4)(C) (providing that ''[u]nless announced otherwise via Trader Update, the Trading Collar for an order to buy (sell) will be a specified amount above (below) the Reference Price, as follows'').

[19] *See id.; see, e.g.,* Trader Update, September 9, 2022, NYSE Arca Options: Changes to Trading Collars Effective September 21st, *available here, https://www.nyse.com/trader-update/history#110000475461.*

[20] *See* Rules 975NY(c)(1) (thresholds for Obvious Errors) and 975NY (d)(1) (thresholds for Catastrophic Errors).

[21] *See* Rule 900.2NY(b) (defining Derived BBO as being ''calculated using the BBO from the Consolidated Book for each of the options series comprising a given complex order strategy).

[22] *See, e.g.,* Cboe Rule 5.33(a) (defining ''Synthetic Bed Bid or Offer and SBBO'' for complex orders as ''the best bid and offer on the Exchange for a complex strategy calculated using'' the ''BBO for each component (or the NBBO for a component if the BBO for that component is not available) of a complex strategy from the [Cboe] Simple Book'').

[23] The reliability of the Exchange's calculated DBBO is essential to ECO trading on the Exchange as this concept permeates all aspects of complex trading, including to determine price parameters at the opening of each series and in determining when, and at what price, a COA Order may initiate a COA as well as market events impacting the DBBO that would result in an early end to a COA. *See, e.g.,* proposed Rule 980NYP(d)(3) (relying on the DBBO to determine ECO Auction Collars for the ECO Opening Auction Process) and 980NYP(f)(2)(A) and (f)(3) (relying on the DBBO to both initiate and price a COA Order as well as to terminate a COA early under certain market conditions)).

[24] *See* Arca Options Rule 6.76P–O(b)(3) providing that ''[i]f an Away Market locks or crosses the Exchange BBO, the Exchange will not change the display price of any Limit Orders or quotes ranked Priority 2—Display Orders and any such orders will be eligible to be displayed as the Exchange's BBO'').

[25] *See* Rule 991NY(b)(3) (exempting from trade-through liability transactions that occur ''when there was a Crossed Market''). *See also* the Options Order Protection And Locked/Crossed Market Plan, dated April 14, 2009, *available here, https://www.theocc.com/getmedia/7fc629d9-4e54-4b99-9f11-c0e4db1a2266/options_order_protection_plan.pdf.*

Instruction'' to mean a request to cancel, cancel and replace, or modify an ECO, which definition is identical to how this term is defined in Arca Options Rule 6.91P–O(a)(6). As described further below, this concept relates to order processing when a series opens or reopens for trading and is based on the term ''order instruction'' as used in Arca Options Rules 6.64P–O(e) and (f), which (similarly) would define an ''order instruction'' for options as a request to cancel, cancel and replace, or modify an order or quote.

• Proposed Rule 980NYP(a)(7) would define the term ''Electronic Complex Order'' or ''ECO'' to mean a Complex Order as defined in Rule 900.3NYP(f) that would be submitted electronically to the Exchange.[26] This proposed definition is based on the preamble to Rule 980NY, and the Exchange proposes to replace reference to the ''System'' with the term ''Exchange'' and to update cross-reference to the definition of a Complex Order as proposed in the American Pillar Priority Filing.

• Proposed Rule 980NYP(a)(8) would define the term ''leg'' or ''leg market'' to mean each of the component option series that comprise an ECO. This definition is consistent with the concept of leg markets as used in current Rule 980NY(a), which defines legs as individual orders and quotes in the Consolidated Book. The Exchange believes the proposed definition would add clarity regarding how the terms ''leg'' and ''leg market'' would be used in connection with ECO trading on Pillar.

• Proposed Rule 980NYP(a)(9) would define ''Ratio'' or ''leg ratio'' to mean the quantity of each leg of an ECO broken down to the least common denominator such that the ''smallest leg ratio'' is the portion of the ratio represented by the leg with the fewest contracts. The Exchange believes the proposed definition would add clarity regarding how the terms ''ratio'' and ''leg ratio'' would be used in connection with ECOs trading on Pillar, which definition is identical to how this term is defined in Arca Options Rule 6.91P–O(a)(9). This proposed definition is likewise consistent with how this concept is described on other options exchanges.[27]

Types of ECOs. Proposed Rule 980NYP(b) would set forth the types of ECOs that would trade on Pillar. Proposed Rule 980NYP(b)(1) would provide that ECOs may be entered as Limit Orders, Limit Orders designated as Complex Only Orders, or as Complex QCCs.[28] This proposed text is based on current Rule 980NY(d)(1), with a difference to include reference to (existing) Complex CUBE Orders and to provide that the Exchange would offer Complex Only Orders and Complex QCCs on Pillar. Allowing ECOs to be designated as Complex QCCs is consistent with current functionality not described in the rule and the Exchange believes that this additional specificity to the proposed rule would add clarity and transparency. Complex Only Orders (as described below) would be updated functionality available on Pillar.[29] The proposed Types of ECOs are also the same as those offered per Arca Options Rule 6.91P–O(b).

• Proposed Rule 980NYP(b)(2) would set forth the time-in-force contingencies available to ECOs, which would be Day, IOC, FOK, or GTC, as those terms will be defined in the subsequent Pillar Order Type Filing in proposed Rule 900.3NYP(b), and GTX (per proposed Rule 980NYP(b)(2)(C) as described below).[30]

• The proposed text is based on current Rules 980NY(d)(2) and (3), except that it adds GTX (as described below). The proposed text also omits AON because the Exchange would not offer AONs for ECO trading on Pillar.

• Proposed Rule 980NYP(b)(2)(A) would provide that an ECO designated as IOC or FOK would be rejected if entered during a pre-open state,[31] which is consistent with the time-in-force of the order (because they could not be traded when a complex strategy is not open for trading) as well as with current functionality.

• Proposed Rule 980NYP(b)(2)(B) would provide that an ECO designated as FOK must also be designated as a Complex Only Order (per proposed Rule 980NYP(b)(1) and described further below). This proposed rule, which is new under Pillar, would simplify the operation of electronic complex order trading and would add clarity and transparency that ECOs designated as FOK (*i.e.,* that have conditional size-related instructions) would not be eligible to trade with the leg markets.

• Proposed Rule 980NYP(b)(2)(C) would provide that an ECO designated as GTX would be defined as an ''COA GTX Order'' and would have the following features: it would not be displayed; it may be entered only during the Response Time Interval of a COA; it must be on the opposite side of the market as the COA Order; and it must specify the price, size, and side of the market. As further proposed, COA GTX Orders may be modified or cancelled during the Response Time Interval and any remaining size that does not trade with the COA Order would be cancelled at the end of the COA. This term ''COA GTX Order'' is new but the definition is based on the description of an RFR Response in current Rule 980NY(e)(5)(A)–(C), which likewise are not displayed and expire at the end of the COA.

Priority and Pricing of ECOs. Proposed Rule 980NYP(c) would set forth how ECOs would be prioritized and priced under Pillar. The proposed priority scheme for ECOs under Pillar is consistent with current functionality, with the differences and clarifications noted below. As proposed, an ECO received by the Exchange that is not immediately executed (or cancelled), including an ECO that cannot trade due to conditions described in paragraphs (a)(5)(B)–(C) (above) [32] and (c)(1)–(2) of this proposed Rule (below) or does not initiate a COA per paragraph (f)(1) (below), would be ranked in the Consolidated Book based on total net price, per Rule 964NYP(e)–(f), with Customer orders at a price ranked ahead of same-priced non-Customer orders. This proposed rule adds cross-references to new rule text (set forth in the American Pillar Priority Filing) but

[26] The proposed definition of Complex Order under Pillar will be included in proposed Rule 900.3NYP, which will be described in the Pillar Order Type Filing. The Exchange represents that the proposed definition of Complex Orders will be substantively the same as this order type is defined in current Rule 900.3NY(e). *See also* Arca Options Rule 6.62P–O(f) (describing Complex Orders in substantively the same manner as Exchange Rule 900.3NY).

[27] *See, e.g.,* Cboe, US Options Complex Book Process, Complex Order Basics, Section 2.1, Ratios, *available here: https://cdn.batstrading.com/resources/membership/US-Options-Complex-Book-Process.pdf* (providing that ''[t]he quantity of each leg of a complex order broken down to the lowest terms will determine the ratio of the complex order'').

[28] The Exchange plans to adopt the proposed definitions of Limit Orders and Complex QCC Orders in the Pillar Order Type Filing (adopting Rule 900.3NYP, Orders and Modifiers)). The Exchange represents that these proposed order types will function in a manner substantively the same as is described per Arca Options Rule 6.62P–O(a)(2) and (g)(1)(A), (C) and (D), (describing Limit Orders and Complex QCC Orders, respectively).

[29] *See, infra,* for discussion of proposed Rule 980NYP(e)(1)(C) (discussing Complex Only Order functionality).

[30] The Exchange plans to adopt the proposed definitions of Day, IOC, FOK, and GTX in the Pillar Order Type Filing (adopting Rule 900.3NYP, Orders and Modifiers). The Exchange represents that these proposed order types will function in a manner substantively the same as is described in current Rule 900.3NY. *See also* Arca Options Rule 6.62P–O(b).

[31] The term ''pre-open state'' will be defined in Rule 952NYP(a)(12) in a subsequent filing (the ''Pillar Auction Filing''), to mean ''the period before a series is opened or reopened,'' which definition will be identical to how this concept is described in Arca Options Rule 6.64P–O(a)(12).

[32] Proposed Rule 980NYP(a)(5)(B)–(C) describe conditions related to the leg markets when complex strategies will not trade.

is otherwise based on Rule 980NY(b), without any substantive differences.[33] The Exchange proposes a non-substantive difference to refer simply to a ''net price'' rather than a ''net debit or credit price,'' which streamlined terminology is consistent with the use of the term ''net price'' on other options exchanges.[34] The proposed rule also incorporates the first sentence of Rule 980NY(c)(iii)(A), regarding the ranking and priority of ECOs not immediately executed, with additional detail regarding the time-in-force modifier of the ECO, which adds clarity and transparency to the proposed Rule.[35]

Proposed Rule 980NYP(c) would further provide that, unless otherwise specified in this Rule, ECOs would be processed as follows:

• Proposed Rule 980NYP(c)(1) would provide that when trading with the leg markets, an ECO would trade at the price(s) of the leg markets provided the leg markets are priced no more than the maximum allowable Away Market Deviation (as defined herein). The proposed rule requiring that when trading with the leg markets, the components of the ECO would trade at the prices of the leg markets is consistent with current functionality, per Rule 980NY(c)(ii); requiring that such prices be bound by the Away Market Deviation for an ECO to trade with the leg markets is new under Pillar, as discussed further below).[36]

For example, if there is sell interest in a leg market at $1.00, and a leg of an ECO to buy could trade up to $1.05, the ECO would trade with such leg market at $1.00. This would result in the ECO receiving price improvement and is consistent with the ECO trading as the Aggressing Order.[37] The proposed functionality that an ECO would trade with leg markets only if the prices of the leg markets are within (and do not exceed the maximum allowable) Away Market Deviation would be new under Pillar and is designed to operate as an additional protection against ECOs being executed on the Exchange at prices too far away from the current market.

• Proposed Rule 980NYP(c)(2) would provide that when trading with another ECO, each component leg of the ECO must trade at a price at or within the Exchange BBO for that series, and no leg of the ECO may trade at a price of zero.[38] This provision is based in part on current Rule 980NY(c), which provides that no leg of an ECO will be executed outside of the Exchange BBO.[39] This proposed rule, which ensures that ECOs would never trade through interest in the leg markets, is consistent with current functionality and adds clarity and transparency to the proposed Rule. This proposed functionality operates in the same manner per Arca Options Rule 6.91P–O(c)(2) and is also consistent with how ECOs are processed on other options exchanges.[40]

• Proposed Rule 980NYP(c)(3) would provide that an ECO may trade without consideration of prices of the same complex strategy available on other exchanges, which is based on the same text as contained in current Rule 980NY(c) without any substantive differences.

• Proposed Rule 980NYP(c)(4) would provide that an ECO may trade in one cent ($0.01) increments regardless of the MPV otherwise applicable to any leg of the complex strategy, which is based on current Rule 980NY, Commentary .01 without any substantive differences.

Execution of ECOs at the Open (or Reopening after a Trading Halt). Current Rule 980NY(c)(i) sets forth how ECOs are executed upon opening or reopening of trading. Proposed Rule 980NYP(d) would set forth details about how ECOs would be executed at the open or reopen following a trading halt. With the transition to Pillar, the Exchange proposes new functionality regarding the ''ECO Opening Auction Process'' on the Exchange, which would be applicable both to openings and reopenings following a trading halt. The proposed ECO Opening Auction Process would operate in a manner identical to the auction process set forth in Arca Options Rule 6.91P–O(d) as described below.[41]

• Proposed Rule 980NYP(d)(1) would set forth the conditions required for the commencement of an ECO Opening Auction Process. Specifically, as proposed, the Exchange would initiate an ECO Opening Auction Process for a complex strategy only if all legs of the complex strategy have opened or reopened for trading, which text is based on current Rule 980NY(c)(i)(A) without any substantive differences. Proposed Rule 980NYP(d)(1)(A)–(B) would set forth conditions that would prevent the opening of a complex strategy, as follows:

○ Any leg of the complex strategy has neither an Exchange BO nor an ABO; or

○ The complex strategy cannot trade per proposed Rule 980NYP(a)(5)(B)–(C).

The proposal to detail these conditions for opening (and reopening) are consistent with current functionality not set forth in the current rule. The Exchange believes that this added detail would not only add clarity and transparency to Exchange rules but would also protect market participants from potentially erroneous executions when there is a lack of reliable information regarding the price at which a complex strategy should execute, thereby promoting a fair and orderly ECO Opening Auction Process.

• Proposed Rule 980NYP(d)(2) would provide that any ECOs in a complex strategy with prices that lock or cross

[33] See Rule 980NY(b) (pricing that ECOs in the Consolidated Book will ''be ranked according to price/time priority based on the total or net debit or credit and the time of entry of the order, provided that [ECOs] on behalf of Customers shall be ranked ahead of same price [ECOs] for non-Customers.'').

[34] *See, e.g.,* Arca Options Rule 6.91P–O(c); Cboe Rule 5.33(f)(2) (setting forth parameters for the ''net price'' of complex orders traded on Cboe); Nasdaq ISE, Options 3, Section 14 (c) (providing, in relevant part, that ''[c]omplex strategies will not be executed at prices inferior to the best net price achievable from the best ISE bids and offers for the individual legs'').

[35] For example, an ECO designated as IOC that does not immediately execute would cancel rather than be ranked on the Consolidated Book, whereas an ECO designated as Day or GTC that does not immediately execute would be ranked on the Consolidated Book.

[36] *See* Rule 980NY(c)(ii) (providing that ''[i]f, at a price, the leg markets can execute against an incoming [ECO] in full (or in a permissible ratio), the leg markets (Customer and non-Customer interest) will have first priority at that price and will trade with the incoming [ECO] pursuant to Rule 964NY(b) before [ECO] resting in the Consolidated Book can trade at that price'').

[37] The Exchange proposes to define the term ''Aggressing Order'' in the American Pillar Priority Filing to mean ''a buy (sell) order or quote that is or becomes marketable against sell (buy) interest on the Consolidated Book.'' See also Arca Options Rule 6.76P–O(a)(5) (same).

[38] *See, infra,* for discussion of proposed Rule 980NYP(e)(1) (discussing ''Execution of ECOs During Core Trading Hours,'' including the treatment of ECOs that have executed, at a price, to the extent possible with the leg markets and of ECOs designated as Complex Only).

[39] As noted herein, no ECO on the Exchange would execute at a price that would exceed the maximum allowable Away Market Deviation on any component of the complex strategy. *See* proposed Rule 980NYP(a)(1) (defining Away Market Deviation).

[40] *See, e.g.,* BOX Rule 7240(b)(3)(ii). *See also* Securities Exchange Act Release Nos. 69027 (March 4, 2013), 78 FR 15093, 15094 (March 8, 2013) (SR–BOX–2013–01) (providing that ''where two Complex Orders trade against each other, the resulting execution prices will be at a price equal to or better than NBBO and BOX best bid or offer (''BBO'') for each of the component Legs,'' per proposed Rule 7240(b)(3)(ii)). *See, e.g.,* Cboe Rule 5.33(f)(2) (providing that complex orders may not execute at a net price that would cause any component of the complex strategy to be executed at a price of zero).

[41] This proposed functionality is also consistent with the opening auction process for single-leg options pursuant to Arca Options Rule 6.64P–O. The Exchange plans to adopt new Rule 952NYP for single-leg opening (and reopening) auctions on Pillar, which rule proposal will be filed separately (the ''Pillar Auction Filing''), which proposed functionality will operate in substantively the same manner as Arca Options Rule 6.64P–O (Auction Process).

one another would be eligible to trade in the ECO Opening Auction Process. This proposed rule is based on current Rule 980NY(c)(i)(B), which provides than an opening process will be used if there are ECOs that ''are marketable against each other.'' The Exchange proposes a difference in Pillar not to require that such ECOs be ''priced within the Complex NBBO'' because the proposed ECO Opening Auction Process under Pillar would instead rely on the DBBO (as described below).[42] As such, the Exchange may open a series based on the Exchange BBO, bound by the Away Market Deviation (or, the ABBO if the Exchange BBO is not available), which is consistent with ECO handling during Core Trading (per proposed Rule 980NYP(e)). The Exchange believes this proposed change would better align the permissible opening price for a series with the permissible execution price during Core Trading, which adds consistency to ECO order handling to the benefit of investors.

Proposed Rule 980NYP(d)(2)(A) would provide that an ECO received during a pre-open state would not participate in the Auction Process for the leg markets pursuant to proposed Rule 952NYP, which is based on the same text (in the second sentence) of current Rule 980NY(c)(i)(A) without any substantive differences.

Proposed Rule 980NYP(d)(2)(B) would provide that a complex strategy created intra-day when all leg markets are open would not be subject to an ECO Opening Auction Process and would instead trade pursuant to paragraph (e) of the proposed Rule (discussed below) regarding the handling of ECOs during Core Trading Hours.

Proposed Rule 980NYP(d)(2)(C) would provide that the ECO Opening Auction Process would be used to reopen trading in ECOs after a trading halt. This proposed rule is consistent with current Rule 952NY(e) and makes clear that the ECO Opening Auction Process would be applicable to reopenings, which would add internal consistency to Exchange rules and promote a fair and orderly ECO Opening Auction Process following a trading halt.

- Proposed Rule 980NYP(d)(3) would describe each aspect of the ECO Opening Auction Process. First, proposed Rule 980NYP(d)(3)(A) would describe the ''ECO Auction Collars,'' which terminology would be new for ECO trading and is based on the term ''Auction Collars'' used in Arca Options Rule 6.91P–O.

As proposed, the upper (lower) price of an ECO Auction Collar for a complex strategy would be the DBO (DBB); provided, however, that if the DBO (DBB) is calculated using the Exchange BBO for all legs of the complex strategy and all such Exchange BBOs have displayed Customer interest, the upper (lower) price of an ECO Auction Collar would be one penny ($0.01) times the smallest leg ratio inside the DBO (DBB). This new functionality on Pillar would ensure that if there is displayed Customer interest on the Exchange on all legs of the strategy, the opening price for the complex strategy would price improve the DBBO, which the Exchange believes is consistent with fair and orderly markets and investor protection.

- Next, proposed Rule 980NYP(d)(3)(B) would describe the ''ECO Auction Price.'' As proposed, the ECO Auction Price would be the price at which the maximum volume of ECOs can be traded in an ECO Opening Auction, subject to the proposed ECO Auction Collar. As further proposed, if there is more than one price at which the maximum volume of ECOs can be traded within the ECO Auction Collar, the ECO Auction Price would be the price closest to the midpoint of the ECO Auction Collar, or, if the midpoint falls within such prices, the ECO Auction Price would be the midpoint, provided that the ECO Auction Price would not be lower (higher) than the highest (lowest) price of an ECO to buy (sell) that is eligible to trade in the ECO Opening (or Reopening) Auction Process. The concept of an ECO Auction Price is consistent with the concept of ''single market clearing price'' set forth in current Rule 980NY(c)(i)(B). For Pillar, the Exchange proposes to determine the ECO Auction Price in the same manner as is used pursuant to Arca Options Rule 6.91P–O.

Finally, as proposed, if the ECO Auction Price would be a sub-penny price, it would be rounded to the nearest whole penny, which text is based on current Rule 980NY(c)(i)(B), with a difference that the current rule refers to the midpoint of the Complex NBBO (which could be a sub-penny price and if so, is rounded down to the nearest penny) as opposed to referring to the ECO Auction Price, which would be a new Pillar term for trading ECOs, which price, if in sub-pennies, would be rounded (up or down) to the nearest MPV.

Proposed Rule 980NYP(d)(3)(B)(i) would provide that an ECO to buy (sell) with a limit price at or above (below) the upper (lower) ECO Auction Collar would be included in the ECO Auction Price calculation at the price of the upper (lower) ECO Auction Collar, but ranked for participation in the ECO Opening (or Reopening) Auction Process in price-time priority based on its limit price. This proposed text is based in part on current Rule 980NY(c)(i)(B). The proposed rule would operate in the same manner as Arca Options Rule 6.91P–O regarding the ECO Auction Price.

Proposed Rule 980NYP(d)(3)(B)(ii) would provide that locking and crossing ECOs in a complex strategy would trade at the ECO Auction Price. As further proposed, if there are no locking or crossing ECOs in a complex strategy at or within the ECO Auction Collars, the Exchange would open the complex strategy without a trade. This proposed text would be new and is identical to Arca Options Rule 6.91P–O(d)(3)(B)(ii).

- Proposed Rule 980NYP(d)(4) would describe the ''ECO Order Processing during ECO Opening Auction Process,'' which processing would be identical to Rule 6.91P–O(d)(4). The Exchange proposes to apply existing Pillar auction functionality regarding how to process ECOs that may be received during the period when an ECO Auction Process is ongoing.

Accordingly, as proposed, new ECOs and ECO Order Instructions (as defined in proposed Rule 980NYP(a)(6), described above) that are received when the Exchange is conducting the ECO Opening Auction Process for the complex strategy would be accepted but would not be processed until after the conclusion of this process. As further proposed, when the Exchange is conducting the ECO Opening Auction Process, ECO Order Instructions would be processed as follows:

- Proposed Rule 980NYP(d)(4)(A) would provide that an ECO Order Instruction received during the ECO Opening Auction Process would not be processed until after this process concludes if it relates to an ECO that was received before the process begins and that any subsequent ECO Order Instruction(s) relating to such ECO would be rejected if received during the ECO Opening Auction Process when a prior ECO Order Instruction is pending.
- Proposed Rule 980NYP(d)(4)(B) would provide that an ECO Order Instruction received during the ECO Opening Auction Process would be processed on arrival if it relates to an order that was received during this process.

[42] *See* Rule 980NY(c)(i)(B) (providing that ''[t]he CME will use an opening auction process if there are Electronic Complex Orders in the Consolidated Book that are marketable against each other and priced within the Complex NBBO''). Per Rule 900.2NY (and proposed Rule 980NYP(a)(2)), the ''Complex NBBO'' for each complex strategy is derived from the national best bid and national best offer for each leg.

Proposed Rule 980NYP(d)(4) is identical to Arca Options Rule 6.91P–O(d)(4) and would provide transparency regarding how ECO Order Instructions that arrived during the ECO Opening Auction Process would be processed.

• Proposed Rule 980NYP(d)(5) would describe the ''Transition to continuous trading'' after the ECO Opening Auction Process. As proposed, after the ECO Opening Auction, ECOs would be subject to ECO Price Protection, per proposed Rule 980NYP(g)(2) (as described below) and, if eligible to trade, would trade as follows:

○ Proposed Rule 980NYP(d)(5)(A) would provide that ECOs received before the complex strategy was opened that did not trade in whole in the ECO Opening Auction Process and that lock or cross other ECOs or leg markets in the Consolidated Book would trade pursuant to proposed Rule 980NYP(e) (discussed below) regarding the handling of ECOs during Core Trading Hours; otherwise, such ECOs would be added to the Consolidated Book. This provision is based on the (last sentence) of current Rule 980NY(c)(i)(B) and (C), with non-substantive differences to use Pillar terminology.

○ Proposed Rule 980NYP(d)(5)(B) would provide that ECOs received during the ECO Opening Auction Process would be processed in time sequence relative to one another based on original entry time. This proposed rule is based on both current functionality and is identical to how orders in an option series that were received during an Auction Processing Period are processed per Arca Options Rule 6.91P–O(d)(5)(B).

Execution of ECOs During Core Trading Hours. Proposed Rule 980NYP(e) would describe how ECOs would be processed during Core Trading Hours. The proposed handling of ECOs during core trading hours would be identical to how ECOs are handled per Arca Options Rule 6.91P–O(e).

Proposed Rule 980NYP(e)(1) would provide that once a complex strategy is open for trading, an ECO would trade with the best-priced contra-side interest as follows:

Proposed Rule 980NYP(e)(1)(A) relates to the priority of the leg markets over ECOs at a price. As proposed, if, at a price, the leg markets can trade with an eligible ECO,[43] in full or in a permissible ratio, the leg markets would trade first at that price, pursuant to proposed Rule 964NYP,[44] until the quantities on the leg markets are insufficient to trade with the ECO. Once the leg market interest, at a price, is exhausted, such ECO would trade with same-priced contra-side ECOs resting in the Consolidated Book, pursuant to Rule 964NYP(j). This functionality is based on Rule 980NY(c)(ii), with the difference that the leg markets always have priority at a price.[45] This proposed functionality of affording leg markets priority at a price is identical to Arca Options Rule 6.91(e)(1)(A) and is consistent with functionality available on other options exchanges.[46]

The Exchange believes that proposed Rule 980NYP(c)(1)(A) would benefit market participants because it is designed to protect the priority of orders on the leg markets by requiring an ECO to execute first against interest on the leg markets at the best price to the extent possible, *i.e.,* in full or in a permissible ratio, and only then permitting an ECO to execute against another ECO at that price. Thus, following the executions against the best-priced interest on the leg markets, an ECO would no longer be executable against interest on the leg markets at the best price because the leg markets would lack sufficient quantity to fill the ECO in a permissible ratio at that price. Absent this provision in Rule 980NYP(c)(1)(A), the Exchange believes that otherwise executable ECOs at the leg market price would lose execution opportunities without any benefit to interest on the leg markets, which is unable to trade with the ECO at that price. Because orders are executable against each other only when both the price and the quantity of the orders match, the Exchange believes it is appropriate (and does not deny leg markets priority) to allow ECOs to trade with other ECOs at the leg market price when such eligible leg market interest at that price has been exhausted.

• Proposed Rule 980NYP(c)(1)(B) would provide that an ECO would not trade with orders in the leg markets designated as AON, FOK, or with an MTS modifier. This proposed text would be new and is based in part on existing functionality (for AON and FOK) and also reflects the Exchange's proposed treatment under Pillar of its new MTS modifier for orders in the leg markets.[47] Consistent with current functionality, orders with an AON, FOK, or (new) MTS modifier are conditional and, by design, will miss certain execution opportunities. The Exchange believes that this proposed rule would simplify the operation of electronic complex order trading and would add clarity and transparency that ECOs would not trade with orders that have conditional size-related instructions.

• Proposed Rule 980NYP(e)(1)(C) would provide that an ECO designated as Complex Only would be eligible to trade solely with another ECO and would not trade with the leg markets. The proposed Complex Only Orders would be new functionality and would operate in the same manner as Complex Only Orders per Arca Options Rule 6.91P–O(e)(1)(C).[48]

As further proposed, an ECO designated as Complex Only must trade at a price at or within the DBBO; provided that, if the DBB (DBO) is calculated using the Exchange BBO for all legs of the complex strategy and all such Exchange BBOs have displayed Customer interest, the Complex Only Order would not trade below (above) one penny ($0.01) times the smallest leg ratio inside the DBB (DBO), regardless of whether there is sufficient quantity on such leg markets to satisfy the ECO.[49] This proposed requirement is designed

[43] *See* proposed Rule 980NYP(e)(1)(C) and (D) (for description of ECOs that are not eligible to trade with the leg markets).

[44] *See* American Pillar Priority Filing (describing Rule 964NYP, Order Ranking, Display, and Allocation, which is the substantively identical Pillar version of current Rule 964NY, except that the proposed rule includes Pillar ranking and priority terminology that is identical to Arca Options Rule 6.76P–O).

[45] *See* Rule 980NY(c)(ii) (providing that if, at a price, the leg markets can execute against an incoming ECO in full (or in a permissible ratio), and each leg includes Customer interest, the leg markets will have first priority at that price ahead of same-priced ECOs resting in the Consolidated Book. In contrast to current Rule 980NY(c)(ii), Pillar will afford the leg markets priority without requiring that ''each leg'' of an incoming ECO contain Customer interest. *See, infra,* proposed Rule 980NYP(c) (regarding Priority and Pricing of ECOs).

[46] *See* Arca Options Rule 6.91P–O(e)(1)(A). *See also* supra note 5, Arca Options Approval Order, 86 FR 43704, at 43709 (discussing substantively the same functionality available on BOX Options Exchange wherein certain Complex Orders to trade at the same price as the best-priced interest in the BOX Book after such eligible leg interest has been exhausted and providing trading example of allocation per Rule 6.91P–O(e)(1)(A)).

[47] The Exchange plans to adopt the proposed the Minimum Trade Size or MTS Modifier in the Pillar Order Type Filing (adopting Rule 900.3NYP, Orders and Modifiers). The Exchange represents that these proposed order types will function in a manner substantively the same as is described in current Arca Options Rule 6.62P–O(i)(3)(B)).

[48] *See* proposed Rule 980NYP(e)(1)(C). In addition to Arca Options, other options exchanges likewise offer Complex Orders that trade only with Complex Orders. *See, e.g.,* Cboe Rule 5.33(a) (defining ''Complex Only'' order as an ECO ''that a [Cboe] Market-Maker may designate to execute only against complex orders in the COB and not Leg into the Simple Book''). The proposed Complex Only Order (like its predecessor PNP Plus Order) would be available to all market participants.

[49] *See* proposed Rule 980NYP(e)(1)(C). Because Complex Only Orders would never trade with the leg markets, whether or not there is sufficient quantity at the displayed Customer price is irrelevant to the operation of this order type.

to ensure that, if there is displayed Customer interest on all legs of the strategy on the Exchange, a Complex Only Order would price improve at least some portion of such interest making up the DBBO. Thus, a Complex Only Order does not get the benefit of the priority treatment set out in proposed Rule 980NYP(e)(1)(A). If a Complex Only Order is unable to trade within the aforementioned price parameters, it would remain on the Consolidated Book until it can trade with another ECO per the requirements of proposed Rule 980NYP(e)(1)(C). The Exchange believes that allowing Complex Only Orders to trade up to the DBBO unless there is displayed Customer interest on all legs of the strategy on the Exchange at the DBBO (as described above), provides market participants additional trading opportunities while still protecting displayed Customer interest on the Exchange.

The proposed operation of the Complex Only Order, insofar as it protects displayed Customer interest in the leg markets when an ECO trades with another ECO, is consistent with current functionality.[50] The proposed order type would also operate in the same manner as Complex Only Orders available per Arca Options Rule 6.91P–O(e)(1)(C) and is therefore not new or novel.

- Proposed Rule 980NYP(e)(1)(D) would provide that ECOs with any one of the following complex strategies would be ineligible to trade with the leg markets and would be processed as a Complex Only Order:
  - a complex strategy with more than five legs;
  - a complex strategy with two legs and both legs are buying or both legs are selling, and both legs are calls or both legs are puts; or
  - a complex strategy with three or more legs and all legs are buying or all legs are selling.

The proposal to restrict ECOs with more than five legs from trading with the leg markets (and being treated as Complex Only Orders), per proposed Rule 980NYP(e)(1)(D)(i), would be new functionality under Pillar and is designed to help Market Makers manage risk. The functionality is identical to functionality available per Arca Options Rule 6.91P–O(e)(1)(D)(i). Because the execution of a multi-legged ECO is a single transaction, comprising discrete legs that must all trade simultaneously, allowing ECOs with more than five legs to trade with the leg markets may allow a multi-legged transaction to occur before a Market Maker's risk settings would be triggered. This proposed limitation is designed to prevent such multi-legged transactions, which would help ensure that Market Makers continue to provide liquidity and do not trade above their established risk tolerance levels. In addition to Arca Options Rule 6.91–O(e)(1)(D)(i), this restriction is also consistent with similar limits established on other options exchanges.[51]

Proposed Rule 980NYP(e)(1)(D)(ii)–(iii), which treats ECOs with certain complex strategies as Complex Only Orders, is based in part on current Rule 980NY(d)(4)(i)–(ii), with a difference that currently, such so-called ''directional strategies'' are rejected. The proposed handling under Pillar would be less restrictive than the current rule because such strategies would not be rejected and is consistent with the treatment of such complex strategies on other options exchanges.[52] As with the proposal to restrict ECOs with more than five legs trading with the leg markets, this proposed restriction is also designed to ensure that Market Maker risk settings would not be bypassed. Because ECOs with directional strategies are typically geared towards an aggressive directional capture of volatility, such ECOs can represent significantly more risk than trading any one of the legs in isolation. As such, because Market Maker risk settings are only triggered after the entire ECO package has traded, the Exchange believes this proposed rule change would help ensure fair and orderly markets by preventing such orders from trading with the leg markets, which would minimize risk to Market Makers.

Proposed Rule 980NYP(e)(2) would provide that the Exchange would evaluate trading opportunities for a resting ECO when the leg markets comprising a complex strategy update, provided that during periods of high message volumes, such evaluation may be done less frequently. The Exchange believes that this proposed rule promotes transparency of the frequency with which the Exchange would be evaluating the leg markets for updates.

The Exchange believes the proposed handling of ECOs during Core Trading is reasonably designed to facilitate increased interaction between orders on the leg markets and ECOs, and to do so in such a manner as to ensure a dynamic, real-time trading mechanism that maximizes the opportunity for trade executions for both ECOs and orders on single option series.

Execution of ECOs During a COA. Proposed Rule 980NYP(f) would describe how ECOs would trade during a COA. The COA Process is currently described in Rule 980NY(e). Under Pillar, the Exchange proposes to modify the COA process, including by relying on the DBBO (as described above) for pricing, allowing a COA Order to initiate a COA only on arrival, and streamlining the rule text describing the circumstances that would cause an early end to a COA. The proposed COA Process is substantively identical to Arca Options Rule 6.91P–O(f), except as noted here with regard to the allocation of a COA Order.

As proposed, a COA Order received when a complex strategy is open for trading and that satisfies the requirements of paragraph (f)(1) of the proposed Rule would initiate a COA only on arrival after trading with eligible interest per proposed Rule 980NYP(f)(2)(A) (described below). As further proposed, a COA Order would be rejected if entered during a pre-open state or if entered during Core Trading Hours with a time-in-force of FOK or GTX. This proposed order handling is based in part on current Rule 980NY(e)(1)(ii), which requires that COA Orders be submitted during Core Trading Hours. The proposed rejection of such orders during a pre-open state would be new under Pillar and is consistent with the Exchange's proposed functionality that a COA Order would initiate a COA only on arrival. In addition, the proposal would clarify that COA Orders designated as FOK or GTX would be rejected, even if submitted during Core Trading Hours, is based on current functionality and this addition would add further detail and clarification to the rule text. Finally, as further proposed, only one COA may be conducted at a time in a complex strategy, which is identical to text in current Rule 980NY(e)(3).

Proposed Rule 980NYP(f)(1), which is identical to Arca Options Rule 6.91P–O(f)(1), would describe the conditions required for the ''Initiation of a COA.'' As proposed, to initiate a COA, the limit price of the COA Order to buy (sell) must be higher (lower) than the best-

[50] *See* Rule 980NY, Commentary .02(i) (providing that, when executing an ECO, if each leg of the contra-side Derived BBO for the components of the ECO includes Customer interest, the price of at least one leg of the order must trade at a price that is at least one cent ($0.01) better than the corresponding price of all customer bids or offers in the Consolidated Book for the same series).

[51] *See, e.g.,* Cboe Rule 5.33(g) (providing the ECOs may be restricted from trading with the leg markets if such ECO has more than a maximum number of legs, which maximum the Exchange determines on a class-by-class basis and may be two, three, or four).

[52] *See, e.g.,* Nasdaq ISE Options 3, Section 14 (d)(3)(A)–(B) (providing that ECOs with these complex strategies may trade only with other ECOs).

priced, same-side ECOs resting on the Consolidated Book and equal to or higher (lower) than the midpoint of the DBBO, which is designed to encourage aggressively-priced COA Orders and, in turn, to attract a meaningful number of RFR Responses to potentially provide price improvement of the COA Order's limit price. This proposed text is based in part on current Rule 980NY(e)(3)(i), with a difference to add a new ''midpoint of the DBBO'' requirement to reflect this new concept under Pillar. As further proposed, a COA Order that does not satisfy these pricing parameters would not initiate a COA and, unless it is cancelled (*i.e.,* if an IOC), such order would be ranked in Consolidated Book and processed as an ECO, per proposed Rule 980NYP(e) (described above). This would be new under Pillar, as current Rule 980NY(e)(3) allows an order designated for COA to reside on the Consolidated Book unless or until such order meets the requisite pricing conditions to initiate a COA. The Exchange believes this proposed change would simplify the COA process and promote the orderly initiation of COAs, which is essential to maintaining a fair and orderly market for ECOs.

Finally, as proposed, once a COA is initiated, the Exchange would disseminate a Request for Response message, the Response Time Interval would begin and, during such interval, the Exchange would accept RFR Responses, including COA GTX Orders. This proposed text is based on current functionality set forth in Rule 980NY(e), with non-substantive differences to use Pillar terminology, including using the new Pillar term for COA GTX Orders.

Proposed Rule 980NYP(f)(2), which is identical to Arca Options Rule 6.91P–O(f)(2), would describe the ''Pricing of a COA.'' As proposed, a COA Order to buy (sell) would initiate a COA at its limit price, unless its limit price locks or crosses the DBO (DBB), in which case it would initiate a COA at a price equal to one penny ($0.01) times the smallest leg ratio inside the DBO (DBB) (the ''COA initiation price''). This proposed functionality utilizes the new concept of a DBBO, is consistent with current functionality (that relies on substantively similar concept of Complex BBO (per Rule 900.2NY(a)), and ensures (consistent with current functionality) that interest on the leg markets maintain priority.

- Proposed Rule 980NYP(f)(2)(A) would provide that prior to initiating a COA, a COA Order to buy (sell) would trade with any ECO to sell (buy) resting in the Consolidated Book that is priced equal to or lower (higher) than the DBO (DBB), unless the DBO (DBB) is calculated using the Exchange BBO for all legs of the complex strategy and all such Exchange BBOs have displayed Customer interest, in which case the COA Order will trade up (down) to one penny ($0.01) times the smallest leg ratio inside the DBO (DBB) (*i.e.,* priced better than the leg markets) and any unexecuted portion of such COA Order would initiate a COA. This proposed rule is based on current Rule 980NY(e)(2) with a difference to use the Pillar concept of DBBO rather than refer to the contra-side Complex BBO and to specify that the COA Order must price improve the DBBO when there is displayed Customer interest on the Exchange leg markets, as noted above.
- Proposed Rule 980NYP(f)(2)(B) would provide that a COA Order would not be eligible to trade with the leg markets until after the COA ends, which added detail, while not explicitly stated in the current rule, is consistent with current functionality described in Rules 980NY(e)(7)(A) and (B) that only RFR Responses (*i.e.,* GTX orders) and ECOs will be allocated in a COA and that the COA Order would not trade with the leg markets until after the COA allocations.

Proposed Rule 980NYP(f)(3) would set forth the conditions that would result in the ''Early End to a COA'' (*i.e.,* a COA ending prior to the expiration of the Response Time Interval), which conditions are consistent with current Rule 980NY(e)(6) as described below. Currently, as described in Rule 980NY(e)(3), the Exchange takes a snapshot of the Derived BBO at the start of a COA and uses that snapshot as the basis for determining whether to end a COA early.

Under Pillar, the Exchange would no longer use a snapshot of the Derived BBO as the basis for determining whether to end a COA early but would instead rely on the DBBO (calculated per proposed Rule 980NYP(a)(5)), which is updated as market conditions change (including during the Response Time Interval).[53] The Exchange believes relying on the DBBO is appropriate and would benefit investors as it would provide real-time trading information that includes an additional layer of price protection for ECO trading as the DBBO is based on Exchange BBOs, when available, or the ABBO. The Exchange proposes a COA would end early under the following conditions:

- Proposed Rule 980NYP(f)(3)(A) would provide that a COA would end early if the Exchange receives an incoming ECO or COA Order to buy (sell) in the same complex strategy that is priced higher (lower) than the initiating COA Order to buy (sell), which proposed text is based on current Rule 980NY(e)(6)(B)(i) without any substantive differences.
- Proposed Rule 980NYP(f)(3)(B) would provide that a COA would end early if the Exchange receives an RFR Response that locks or crosses the DBBO on the same-side as the COA Order, which proposed text is based on current Rule 980NY(e)(6)(A)(i), except (as noted above) it refers to the DBBO rather than the ''initial Derived BBO.''
- Proposed Rule 980NYP(f)(3)(C) would provide that a COA would end early if the leg markets update causing the DBBO on the same-side as the COA Order to lock or cross (i) any RFR Response(s) or (ii) if no RFR Responses have been received, the best-priced, contra-side ECOs. This proposed rule is based in part on current Rule 980NY(e)(6)(C)(i), with differences to use Pillar terminology, including reference to the DBBO.
- Proposed Rule 980NYP(f)(3)(D) would provide that a COA would end early if the leg markets update causing the contra-side DBBO to lock or cross the COA initiation price. This proposed rule is based in part on current Rule 980NY(e)(6)(C)(ii), except that it would refer to the DBBO and the COA initiation price, which would be new concepts under Pillar.

Because the DBBO may be calculated using the ABBO for a given leg, the Exchange notes that it would be new under Pillar to have a COA end early based on (locking or crossing) market conditions outside of the Exchange. The Exchange believes this proposed functionality would benefit market participants by preventing COA Orders from executing at prices too far away from the prevailing market for that complex strategy. In addition, the Exchange believes this proposed functionality would promote internal consistency and benefit market participants because, as proposed, the execution of ECOs on the Exchange, including whether such ECO may initiate a COA as a COA Order, is based on the DBBO. As such, the Exchange believes it is appropriate and to the benefit of market participants that the early termination of a COA likewise be based on the DBBO—regardless of whether the prices used to calculate such DBBO include (or consist entirely of) ABBO prices.

- Proposed Rule 980NYP(f)(3)(E) would provide that a COA would end early if the Exchange receives a Complex CUBE Order in the same

[53] As discussed *infra* regarding proposed Rule 980NYP(a)(5) and the definition of the Derived BBO, ''the DBBO will be updated as the Exchange BBO or ABBO, as applicable, is updated'').

complex strategy as the COA Order, which is consistent with current functionality only insofar as certain Complex CUBE Orders may cause a COA to end early based on price (*see, e.g.,* Rule 980NY(e)(6)(A) and (B)). The proposed functionality is different, however, because any Complex CUBE Order in the same series as a COA will cause the COA to end early regardless of the price, side, or size of the CUBE Order. The Exchange proposes to end a COA early upon receipt of a CUBE Order in the same series so that the Exchange can evaluate whether the CUBE Order is eligible to initiate a Complex CUBE Auction, per Rule 971.2NY.

• Proposed Rule 980NYP(f)(4) would set forth the ''Allocation of COA Orders'' after a COA either ends early or after the expiration of the Response Time Interval. Current Rule 980NY(e)(7)(A) sets forth that the COA-eligible orders are allocated against the best-priced interest received in the COA at each price on a ''size pro rata basis,'' as that concept is defined in Rule 964NY(b)(3).[54] Under Pillar, the allocation of the COA Order would continue to be allocated on a size pro rata basis, with new functionality based on the proposed DBBO (per Rule 980NYP(a)(5)) to ensure that Customer interest at a price continues to be afforded priority.

Specifically, proposed Rule 980NYP(f)(4)(A) would provide that RFR Responses to sell (buy) that are priced equal to or lower (higher) than a COA Order to buy (sell) would trade up (down) to the DBBO; provided, however, that if all legs of the DBB (DBO) are calculated using Exchange BBOs and all such Exchange BBOs have displayed Customer interest, RFR Responses to sell (buy) would not trade below (above) one penny ($0.01) times the smallest leg ratio inside the DBB (DBO). This proposed rule would ensure that the COA Order would not trade at a worse price than the leg markets and would price improve the DBBO where there is displayed Customer interest on all legs of the complex strategy on the Exchange, which is consistent with current Commentary .02(ii) to Rule 980NY.[55] Further, proposed Rule 980NYP(f)(4)(A)(i) would specify that ''[a]t each price point, the COA Order will trade first with Customer RFR Responses in time priority, followed by non-Customer RFR Responses on a size pro rata basis pursuant to Rule 964NYP(i)'' and that ''Non-Customer RFR Responses will be capped at the remaining size of the COA Order for purposes of size pro rata allocation.'' [56] The proposed text is based in part on current Rule 980NY(e)(7)(A) insofar as it ensures that the COA Order would trade with the best-priced RFR Responses received in the COA, beginning with Customer interest at a price followed by same-priced non-Customer interest. The proposed text would also include the additional detail that non-Customer RFR Responses are capped at the remaining size of the COA Order for purposes of pro rata allocation, which is consistent with current functionality as relates to non-Customer RFR Responses. However, on Pillar, Customer RFR Responses would trade in time and would not be subject to a pro rata allocation, which proposed handling is consistent with the Exchange's Customer priority model.[57]

Proposed Rule 980NYP(f)(4)(B) would provide that after COA allocations pursuant to paragraph (f)(4)(A) of this proposed Rule, any unexecuted balance of a COA Order (including COA Orders designated as IOC) would be eligible to trade with any contra-side interest, including the leg markets unless the COA Order is designated or treated as a Complex Only Order. This proposed text is based on existing functionality and makes explicit that a COA Order would trade solely with complex interest (and not the leg markets) during a COA. This proposed rule is designed to provide clarity and transparency that the remaining balance of a COA Order would be eligible to trade with the leg markets after the COA ends.

Proposed Rule 980NYP(f)(4)(C) would provide that after a COA Order trades pursuant to proposed Rule 980NYP(f)(4)(B), any unexecuted balance of a COA Order that is not cancelled (*i.e.,* if an IOC) would be ranked in the Consolidated Book and processed as an ECO pursuant to paragraph (e) of this Rule. The proposed text is based on current Rule 980NY(e)(7)(B) without any substantive differences.

Proposed Rule 980NYP(f)(5) would set forth ''Prohibited Conduct related to COAs,'' and is based on the first sentence of current Commentary .04 to Rule 980NY with one substantive differences: to add reference to quotes, and would provide that a pattern or practice of submitting ''unrelated *quotes or* orders that cause a COA to conclude early would be deemed conduct inconsistent with just and equitable principles of trade,'' [58] which addition would broaden the scope of ''Prohibited Conduct'' to the benefit of market participants and would also add clarity and transparency to Exchange rules. The proposed change is identical to Arca Options Rule 6.91P–O(f)(5).

ECO Risk Checks. Proposed Rule 980NYP(g) would describe the ''ECO Risk Checks,'' which are designed to help ATP Holders to effectively manage risk when trading ECOs. Current Commentaries .03, .05, and .06 of Rule 980NY set forth the existing risk checks for ECOs. The proposed ECO Risk Checks are identical to and would operate in the same manner as set forth in Arca Options Rule 6.91P–O(g).

With the transition to Pillar, the Exchange proposes to modify and enhance its existing risk checks for ECOs, as follows:

• Proposed Rule 980NYP(g)(1) would set forth the ''Complex Strategy Limit.'' As proposed, the Exchange would establish a limit on the maximum number of new complex strategies that may be requested to be created per MPID, which limit would be announced by Trader Update.[59] As further

[54] *See* Rule 980NYP(e)(7)(A) (providing that the COA-Eligible Order will execute against ''RFR Responses and [ECOs] to buy (sell) that are priced higher (lower) than the initial Derived BBO will be eligible to trade first with the COA-eligible order, beginning with the highest (lowest), at each price point, on a Size Pro Rata basis pursuant to Rule 964NY(b)(3), provided that [ECOs] on behalf of Customers will have priority over same priced [ECOs] for non-Customers.'').

[55] *See* Rule 980NY, Commentary .02(ii) (providing that, when executing an ECO in a class that has been designated as eligible for a COA, if each leg of the contra-side Derived BBO—calculated using the BBO from the Consolidated Book for each of the options series comprising a given complex order strategy per Rule 900.2NY—for the components of the ECO includes Customer interest, the price of at least one leg of the order must ''trade at a price that is better than the corresponding price of all customer bids or offers in the Consolidated Book for the same series, by at least one standard trading increment as defined in Rule 960NY,'' which minimum trading increment is one cent ($0.01). *See* Rule 960NY(b).

[56] *See* American Pillar Priority Filing (which includes proposed Rule 964NYP(i), which sets forth a size pro rata allocation formula that is identical to the formula set forth in current Rule 964NY(b)(3)).

[57] *See, e.g.,* Rules 964NY(b)(2)(A) (regarding priority of displayed Customer interest based on time) and (b)(2)(D) (providing that non-Customer interest is subjected to pro rata allocation); *see also* proposed Rule 964NYP(h)(3) (regarding non-Customers in ''size pro rata pool'') and (j) (regarding allocation of Customer and non-Customer interest) as described in the American Pillar Priority Filing).

[58] *See* proposed Rule 980NYP(f)(5) (emphasis added). In addition, rather than copy into proposed Rule 980NYP the second sentence of current Rule 980NY, Commentary .04, which provides that dissemination of information related to COA Orders to third parties would also be deemed as conduct inconsistent with just and equitable principles of trade, the Exchange proposes to add more expansive language regarding this prohibited conduct to the order exposure rule. *See infra* for discussion of proposed change to Rule 935NY.

[59] The Exchange has proposed to add the definition of MPID to proposed Rule 900.2NY, which would refer to ''the identification number(s)

Continued

proposed, when an MPID reaches the limit on the maximum number of new complex strategies, the Exchange would reject all requests to create new complex strategies from that MPID for the rest of the trading day. In addition, and notwithstanding the established Complex Strategy Limit, the Exchange proposes that it may reject a request to create a new complex strategy from any MPID whenever the Exchange determines it is necessary in the interests of a fair and orderly market.

This is new functionality proposed under Pillar but is conceptually similar to the Complex Order Table Cap (the ''Cap''), set forth in Commentary .03 to Rule 980NY, which Cap (like the Complex Strategy Limit), would help maintain a fair and orderly market because it would operate as a system protection tool that enables the Exchange to prevent any single MPID from creating more than a limited number of complex strategies during the trading day. This proposed Cap is identical to Arca Options Rule 6.91P–O(g)(1). The Exchange also notes that other options exchanges likewise impose a limit on new complex order strategies.[60]

• Proposed Rule 980NYP(g)(2) would set forth the ECO Price Protection. The existing ECO ''Price Protection Filter'' is set forth in Commentary .05 to current Rule 980NY (the ''ECO Filter''). The proposed ''ECO Price Protection'' on Pillar would work similarly to how the current ECO price protection mechanism functions on the Exchange because an ECO would be rejected if it is priced a specified percentage away from the contra-side Complex NBB or NBO.[61] However, on Pillar, the Exchange proposes to use new thresholds and reference prices, which would simplify the existing price check, but because this functionality is identical to Arca Options Rule 6.91P–O(g)(2), this change would also add uniformity to Exchange options platforms. Although the mechanics of the ECO Price Protection would vary slightly from the existing Price Protection Filter, the goal of this feature would remain the same: to prevent the execution of ECOs that are priced too far away from the prevailing market for the same strategy and therefore potentially erroneous. Whereas the Away Market Deviation (vis a vis a DBBO based on an Exchange BBO) is designed to make sure that ECOs do not trade too far away from the prevailing market, the ECO Order Protection as proposed (and as is the case today) is to prevent the execution of ECOs that were potentially (inadvertently) entered at prices too far away from the prevailing market and, as such, this mechanism protects the order sender from itself.

Proposed Rule 980NYP(g)(2)(A) would provide that each trading day, an ECO to buy (sell) would be rejected or cancelled (if resting) if it is priced a Specified Threshold amount or more above (below) the Reference Price (as described below), subject to proposed paragraphs (g)(2)(A)(i)–(v) of the Rule as described below. Because ECO Price Protection would be applied each trading day, an ECO designated GTC would be re-evaluated for ECO Price Protection on each day that it is eligible to trade and would be cancelled if the limit price is equal to or through the Specified Threshold.[62] This proposed functionality is identical to Arca Options Rule 6.91P–O(g)(2)(A).

○ Proposed Rule 980NYP(g)(2)(A)(i) would provide that an ECO that arrives when a complex strategy is open for trading would be evaluated for ECO Price Protection on arrival. This functionality is identical to Arca Options Rule 6.91P–O(g)(2)(A)(i).

○ Proposed Rule 980NYP(g)(2)(A)(ii) would provide that an ECO received during a pre-open state would be evaluated for ECO Price Protection after the ECO Opening Auction Process concludes.[63] This functionality is identical to Arca Options Rule 6.91P–O(g)(2)(A)(ii).

○ Proposed Rule 980NYP(g)(2)(A)(iii) would provide that an ECO resting on the Consolidated Book before a trading halt would be reevaluated for ECO Price Protection after the ECO Opening Auction Process concludes. This functionality is identical to Arca Options Rule 6.91P–O(g)(2)(A)(iii).

○ Proposed Rule 980NYP(g)(2)(A)(iv) would provide that QCC Orders (per Rule 6.62P–O(g)(1)) would not be subject to ECO Price Protection, as the Exchange subjects such paired orders to distinct price validations.[64] This functionality is identical to Arca Options Rule 6.91P–O(g)(2)(A)(iv).

○ Proposed Rule 980NYP(g)(2)(A)(v) would provide that ECO Price Protection would not be applied if there is no Reference Price for an ECO. This functionality is identical to Arca Options Rule 6.91P–O(g)(2)(A)(v).

Proposed Rule 980NYP(g)(2)(B) would specify the ''Reference Price'' used in connection with the ECO Price Protection. As proposed, the Reference Price for calculating ECO Price Protection for an ECO to buy (sell) would be the Complex NBO (NBB), provided that, immediately following an ECO Opening Auction Process, the Reference Price would be the ECO Auction Price or, if none, the Complex NBO (NBB). The Exchange believes that adjusting the Reference Price for ECO Price Protection immediately following an ECO Opening Auction would ensure that the most up-to-date price would be used to assess whether to cancel an ECO that was received during a pre-open state, including during a Trading Halt. The Exchange notes this functionality is identical to how this functionality operations per Arca Options Rule 6.91P(g)(2)(B).

As further proposed, there would be no Reference Price for an ECO if there is no NBBO for any leg of such ECO (*i.e.,* the Exchange would not calculate a Complex NBB (NBO)), which text is based on current Rule 980NY, Commentary .05(c), except that the proposed rule would not reference OPRA because, as further proposed, for purposes of determining a Reference Price, the Exchange would not use an adjusted NBBO (*i.e.,* such NBBO is implicitly reliant on information from OPRA).[65] The Exchange notes that using an unadjusted NBBO to calculate the Reference Price is identical to how this

assigned to the orders and quotes of a single ETP Holder, ATP Holder, or OTP Firm for the execution and clearing of trades on the Exchange by that permit holder. An ETP Holder, ATP Holder, or OTP Firm may obtain multiple MPIDs and each such MPID may be associated with one or more sub-identifiers of that MPID.'' *See* American Priority Pillar Filing.

[60] *See, e.g.,* Cboe Rule 5.33(a) (providing, in its definition of ''complex strategy'' that Cboe ''may limit the number of new complex strategies that may be in the [Cboe] System at a particular time'') and MIAX Rule 518(a)(6) (providing, in its definition of ''complex strategy'' that MIAX ''may limit the number of new complex strategies that may be in the System at a particular time and will communicate this limitation to Members via Regulatory Circular'').

[61] As noted above, the Exchange proposes to define the Complex NBBO as the derived national best bid and derived national best offer for a complex strategy calculated using the NBB and NBO for each component leg of a complex strategy. *See* proposed Rule 980NYP(a)(2).

[62] As noted here, the Exchange proposes to add GTC Orders in Pillar Order Type Filing, which order type would operate in the same manner as per current Rule 900.3NY.

[63] *See* discussion *infra* regarding proposed Rule 980NYP(d), which describes the ECO Opening Auction Process (or Reopening after a Trading Halt) as well as the concepts of ECO Auction Collars and ECO Auction Price.

[64] *See, e.g.,* Rules 971.1NY and 971.2NY (regarding price requirements to initiate a CUBE Auction).

[65] *See* American Pillar Priority Filing (discussion regarding the definition of ''NBBO'' in proposed Rule 900.2NY describing that the ''NBBO'' for purposes of options trading as referring to the national best bid or offer and that ''[u]nless otherwise specified, the Exchange may adjust its calculation of the NBBO based on information about orders it sends to Away Markets, execution reports received from those Away Markets, and certain orders received by the Exchange'').

functionality operations per Arca Options Rule 6.91P(g)(2)(B).

Proposed Rule 980NYP(g)(2)(C) would set forth the ''Specified Threshold'' used in connection with the ECO Price Protection. As proposed, the Specified Threshold for calculating ECO Price Protection would be $1.00, unless determined otherwise by the Exchange and announced to ATP Holders by Trader Update.

The Exchange believes that the proposed Specified Threshold of $1.00 simplifies how the Reference Price would be calculated as compared to the calculations currently specified in Commentary .05 to Rule 980NY. In addition, consistent with Commentary .05(d), the Exchange proposes that the Specified Threshold could change, subject to announcing the changes by Trader Update. Providing flexibility in Exchange rules regarding how the Specified Threshold would be set is identical functionality available per Arca Options Rule 6.62P–O(a)(3)(C) and is also consistent with the rules of other options exchanges as well as the functionality for the single-leg Limit Order Price Protection feature.[66]

• Proposed Rule 980NYP(g)(3) would set forth the ''Complex Strategy Protections,'' which are identical to Arca Options Rule 6.91P–O(g)(3). The proposed protections are based on current Rule 980NY, Commentary .06, which are referred to as the ''Debit/Credit Reasonability Checks.'' The Exchange believes this name change is appropriate because it more accurately conveys that the check applies solely to certain complex strategies and because (as discussed above), the Exchange proposes to refer simply to a ''net price'' as opposed to the ''total net debit or credit price.'' The proposed Pillar Complex Strategy Protections would function similarly to the current Debit/Credit Reasonability Checks because potentially erroneously priced incoming ECOs would be rejected. However, rather than to refer to specified debit or credit amounts as a way to determine whether a given strategy is erroneously priced, the proposed rule would instead focus on the expectation of the order sender and what would result if the ECO were not rejected. Consistent with current functionality, the proposed Complex Strategy Protections are designed to prevent the execution of ECOs at prices that are inconsistent with/not aligned with their strategies.

As proposed, to protect an ATP Holder that sends an ECO (each an ''ECO sender'') with the expectation that it would receive (or pay) a net premium but has priced the ECO such that the ECO sender would instead pay (or receive) a net premium, the Exchange would reject any ECO that is comprised of the erroneously-priced complex strategies as set forth in proposed Rule 980NYP(g)(3)(A)–(C) and described below.

Proposed Rule 980NYP(g)(3)(A) would provide that '' 'All buy' or 'all sell' strategies'' would be rejected as erroneously-priced if it is an ECO for a complex strategy where all legs are to buy (sell) and it is entered at a price less than one penny ($0.01) times the sum of the number of options in the ratio of each leg of such strategy (*e.g.,* a complex strategy to buy (sell) 2 calls and buy (sell) 1 put with a price less than $0.03). The proposed text is based on Rule 980NY, Commentary .06(a)(1), with no substantive differences, except that the Exchange has streamlined the text and set forth the minimum price (*i.e.,* $0.03) for any ''all buy'' or ''all sell'' strategies.

Proposed Rule 980NYP(g)(3)(B) would provide for the rejection of erroneously-priced ''Vertical spreads,'' which are defined as complex strategies that consists of a leg to sell a call (put) option and a leg to buy a call (put) option in the same option class with the same expiration but at different strike prices. As proposed, the Exchange would reject as erroneously-priced: (i) an ECO for a vertical spread to buy a lower (higher) strike call and sell a higher (lower) strike call and the ECO sender would receive (pay) a net premium (proposed Rule 980NYP(g)(3)(B)(i)); and (ii) an ECO for a vertical spread to buy a higher (lower) strike put and sell a lower (higher) strike put and the ECO sender would receive (pay) a net premium (proposed Rule 980NYP(g)(3)(B)(ii)). The proposed strategy protections for vertical spreads are based on current Rule 980NY, Commentary .06(a)(2), except that, as noted above, the proposed Rule is written from the standpoint of the expectation of the ECO sender as opposed to reviewing total net debit or credit price of the strategy.

Proposed Rule 980NYP(g)(3)(C) would provide for the rejection of erroneously-priced ''Calendar spreads,'' which are defined as consisting of a leg to sell a call (put) option and a leg to buy a call (put) option in the same option class at the same strike price but with different expirations. As proposed, the Exchange would reject as erroneously-priced: (i) an ECO for a calendar spread to buy a call leg with a shorter (longer) expiration while selling a call leg with a longer (shorter) expiration and the ECO sender would pay (receive) a net premium (proposed Rule 980NYP(g)(3)(C)(i)); and (ii) an ECO for a calendar spread to buy a put leg with a shorter (longer) expiration while selling a put leg with a longer (shorter) expiration and the ECO sender would pay (receive) a net premium (proposed Rule 980NYP(g)(3)(C)(ii)). The proposed strategy protections for calendar spreads are based on current Rule 980NY, Commentary .06(a)(3), except that, as noted above, the proposed Rule is written from the standpoint of the expectation of the ECO sender as opposed to reviewing the total net debit or credit price of the strategy. The Exchange has also not retained discretion to disable the strategy protections for calendar spreads (as contained in Commentary .06(a)(3)(i) of the current Rule) because since adopting this provision in 2017, the Exchange has never exercised this discretion and therefore has determined that such discretion is no longer needed.

Proposed Rule 980NYP(g)(3)(D) would provide that any ECO that is not rejected by the complex strategy protections would still be subject to the ECO Price Protection, per paragraph (g)(2) of this Rule, which proposed text is based on Rule 980NY, Commentary .06(b) without any substantive difference.

Rule 935NY: Order Exposure Requirements

The Exchange also proposes conforming, non-substantive amendments to Rule 935NY, regarding order exposure, to add a cross-reference to new Pillar Rule 980NYP. Current Rule 6.47A–O(iv) exempts orders submitted to the COA Process, (per current Rule 980NY) from its one-second order exposure requirements. This proposed amendment would extend the exemption from the order exposure requirements to orders submitted to a COA on Pillar.[67] The Exchange also proposes to modify the reference to ''Complex Order Auction Process ('COA')'' to simply ''Complex Order Auction ('COA')'' (*i.e.,* removing the word Process) consistent with how this concept is defined in proposed Rule 980NYP(a)(3). As previously stated, the Exchange believes that the proposed Response Time Interval for a COA (with a duration of no less than 100 milliseconds) is of sufficient length to allow ATP Holders time to respond to

[66] *See, e.g.,* Cboe Rule 5.34(b)(6) (describing the ''Drill-Through Protection'' and that Cboe ''determines a default buffer amount on a class-by-class basis). *See* Single-Leg Pillar Filing (describing use of Trader Update to modify Specified Thresholds in Rule 6.62P–O (a)(3)(C)).

[67] *See* proposed Rule 935NY(iv). The Exchange also proposes to replace reference to ''System'' with ''the Exchange.'' *See id.* (preamble).

a COA. As such, the proposal is designed to promote timely execution of the COA Order, while ensuring adequate exposure of such orders. Accordingly, the Exchange proposes to amend Rule 935NY (iv) to extend the exemption from the one-second exposure requirement to COA Orders under Pillar, which exemption is substantively identical to NYSE Arca Rule 6.47A–O. Consistent with Rule 935NY, Commentary .01, ATP Holders would only utilize the COA where there is a genuine intention to execute a bona fide transaction.[68]

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As discussed above, because of the technology changes associated with the migration to the Pillar trading platform, subject to approval of this proposed rule change, the Exchange will announce by Trader Update when rules with a ''P'' modifier will become operative and for which symbols. The Exchange believes that keeping existing rules on the rulebook pending the full migration of Pillar will reduce confusion because it will ensure that the rules governing trading on the Exchange's current system will continue to be available pending the full migration to Pillar.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[69] in general, and furthers the objectives of Section 6(b)(5),[70] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that proposed Rule 980NYP to support electronic complex trading on Pillar would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule would promote transparency in Exchange rules by using consistent terminology governing trading on both of the Exchange's options platforms, thereby ensuring that members, regulators, and the public can more easily navigate the Exchange's rulebook and better understand how options trading is conducted on the Exchange.

The Exchange believes that adding new Rule 980NYP with the modifier ''P'' to denote that this rule would be operative for the Pillar trading platform would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing transparency of which rules would govern trading once a symbol has been migrated to the Pillar platform. The Exchange similarly believes that adding a preamble to current Rule 980NY stating that it would not be applicable to trading on Pillar would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote transparency regarding which rules would govern trading on the Exchange during and after the transition to Pillar.

The Exchange believes that incorporating Pillar functionality currently available for trading of electronic complex orders on the Exchange's affiliated options exchange (in Arca Options Rule 6.91P–O) would remove impediments to and perfect the mechanism of a free and open market and a national market system because the Exchange would be able to offer consistent functionality across its options trading platforms for trading of electronic complex orders. As discussed herein, and unless otherwise specified herein, the Exchange is not proposing fundamentally different functionality regarding how ECOs would trade on Pillar than is currently available on the Exchange. Accordingly, with the transition to Pillar, the Exchange would use Pillar terminology to describe functionality that is not changing and also introduce certain new or updated functionality for Electronic Complex Orders (*i.e.,* enhancing the opening auction process, including introducing the ''ECO Auction Collars'') that will also be available for outright options trading on the Pillar platform. As such, the Exchange believes that using Pillar terminology and incorporating updated functionality for the proposed new rule would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote consistency in the Exchange's rules across both of its options platforms.

Definitions, Types of ECOs and Priority and Pricing of ECOs

The Exchange believes that the proposed definitions in Rule 980NYP(a) would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes are designed to promote clarity and transparency by consolidating existing defined terms related to electronic complex trading into one section of the proposed rule. The Exchange believes that the proposed non-substantive amendments to those terms currently defined in Rule 980NYwould promote clarity and transparency by using Pillar terminology. The Exchange further believes consolidating defined terms in proposed Rule 980NYP(a) (including alphabetizing the proposed terms) would make the proposed rule more transparent and easier to navigate.

The Exchange believes that the proposed new definition of Away Market Deviation would further remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote clarity and transparency to market participants regarding how the Exchange would calculate this additional protection against ECOs being executed on the Exchange at prices too far away from the current market.

The Exchange believes that the proposed new definition of DBBO (and related terms of DBB and DBO) would further remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote clarity and transparency to market participants regarding how the DBBO would be calculated under Pillar. The proposed definition is not novel and is identical to how Arca Options Rule 6.91P–O(a)(5) defines DBBO and is also consistent with similarly defined terms used on Cboe. The Exchange believes that providing an alternative means of calculating the DBBO (*e.g.,* by looking to the contra-side best bid (offer) in the absence of same-side interest) would remove impediments to and perfect the mechanism of a free and open market and a national market system thereby benefitting as it should increase opportunities for trading.

In addition, the Exchange believes that setting forth additional definitions in proposed Rule 980NYP(a), including those that are used on other options exchanges (*e.g.,* ''complex strategy'' and ''ratio'') and clarifying terms (*e.g.,* ''leg'' and ''leg markets''), would remove impediments to and perfect the

[68] *See* Rule 935NY, Commentary .01 (''Rule 935NY prevents a User from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the User was already bidding or offering on the book'').

[69] 15 U.S.C. 78f(b).

[70] 15 U.S.C. 78f(b)(5).

mechanism of a free and open market and a national market system because it would promote clarity and transparency to market participants regarding electronic complex trading under Pillar. Finally, the proposed definition of ''ECO Order Instruction'' would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would incorporate for ECOs existing Pillar order handling functionality in an auction that substantively identical to Arca Options Rule 6.91P–O(a)(6). The Exchange similarly proposes this functionality for the ECO Opening Auction Process, with non-substantive differences only to use an ECO-specific defined term and to refer to the ECO Opening Auction Process.

The Exchange believes that the proposed types of ECOs available per Rule 980NYP(b) would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would describe the ECOs and time-in-force modifiers that would be available on Pillar, as well as specifying additional ECO types. The Exchange believes that the non-substantive differences to use Pillar terminology to describe the available ECO order types would promote transparency and clarity in Exchange rules. The Exchange believes that the proposed Complex Only Order is not novel because it would operate in a manner identical to how such orders function per Arca Options Rule 6.91P–O (*i.e.,* the order type only interact with other ECOs). In addition, the proposed COA GTX Order uses Pillar terminology to describe what is referred to as an ''RFR Response'' in the current rules, and therefore is not novel.

The Exchange believes that proposed new Rule 980NYP(c) would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rules would set forth a Customer priority and size pro rata allocation model for Pillar and pricing requirements for ECO trading that are substantively the same as the Exchange's current Customer priority model and pricing requirements as set forth in Rule 980NY(b) and Commentaries .01 and .02(i) and (ii) to Rule 980NY. The Exchange proposes certain modified functionality, including the Complex Only Order as noted above, and regarding ECO trading vis a vis the DBBO (and binding such DBBO by the maximum allowable Away Market Deviation when the Exchange BBO is used to calculate the DBBO for a leg), which would benefit market participants as the proposed features would provide additional price protection in ECO trading and would add clarity and transparency to the rules. The Exchange believes that proposed Rule 980NYP(c) would remove impediments to and perfect the mechanism of a free and open market and a national market system because they would promote transparency and clarity in Exchange rules regarding how ECOs would trade with the leg markets and with other ECOs.

Execution of ECOs at the Open (or Reopening After a Trading Halt)

The Exchange believes that proposed Rule 980NYP(d) regarding the ECO Opening Auction Process would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule maintains the fundamentals of an auction process that the Exchange currently uses for ECOs, as described in Rule 980NY(c)(i)(B), while at the same time enhancing the process by incorporating Pillar auction functionality that is identical to Arca Options Rule 6.91P–O(d). For example, the Exchange proposes to use Pillar functionality to determine how to price an ECO Opening Auction Process, as described in proposed Rule 980NYP(d)(3), including using proposed ''ECO Auction Collars'' and an ''ECO Auction Price,'' which are consistent with the core functionality for opening ECOs, with additional detail that would promote clarity and transparency to market participants regarding this process. The Exchange believes it is appropriate to refrain from opening a series when there is a lack of reliable pricing indication(s) regarding the price at which a complex strategy should execute because doing so would protect market participants from potentially erroneous executions, thereby promoting a fair and orderly ECO Opening Auction Process.

Moreover, the Exchange believes that the proposal to use the DBBO (as opposed to the currently used Complex NBBO) for the ECO Opening Process would allow the Exchange to open a series based on the Exchange BBO, bound by the Away Market Deviation (or, the ABBO if the Exchange BBO is not available), which is consistent with ECO handling during Core Trading (per proposed Rule 980NYP(e)). The Exchange believes this proposed change would better align the permissible opening price for a series with the permissible execution price during Core Trading, which adds consistency to ECO order handling (as well as internal consistency to Exchange rules) to the benefit of investors. As such, this proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system.

In addition, the Exchange believes that requiring that the opening price for a complex strategy must improve the DBBO if there is displayed Customer interest on all legs of the strategy on the Exchange would protect displayed Customer interest, and protect investors in general, while ensuring a fair and orderly ECO Opening Process.

The Exchange also proposes to process ECOs received during an ECO Opening Auction Process, as described in proposed Rule 980NYP(d)(4), and transition to continuous trading following an ECO Opening Auction Process, as described in proposed Rule 980NYP(d)(5), in a manner that is identical to how ECOs are processed at the open per Arca Options Rule 6.91P–O(d)(4) and (d)(5). The Exchange believes that using similar functionality for ECO auctions would promote consistency across the Exchange's options trading platforms. The Exchange believes that the additional detail regarding the ECO Opening Auction Process for electronic complex options trading on Pillar would promote transparency in the Exchange's trading rules.

The Exchange further believes that the proposed Rules 980NYP(d)(1) and (2), which describe when the Exchange would initiate an ECO Opening Auction Process and which ECOs would be eligible to trade in that process, would remove impediments to and perfect the mechanism of a free and open market and a national market system because they would provide clarity and transparency of the conditions required before the Exchange would initiate an ECO Opening Auction Process. The Exchange further believes that those conditions are not novel and are based on existing conditions specified in Rule 980NY(c)(i)(A) and (B), with additional specificity designed to promote clarity and transparency. Accordingly, the Exchange believes that the ECO Opening Auction Process for ECOs trading on Pillar would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed process is based on the current opening process, including that orders would be matched based on price-time priority at a price at which the maximum volume can be traded.

Execution of ECOs During Core Trading Hours

The Exchange believes that proposed Rule 980NYP(e), setting forth the execution of ECOs during Core Trading Hours, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed functionality would incorporate the Exchange's existing Customer priority and size pro rata allocation model for trading ECOs and would provide that the leg markets would have priority at a price. The Exchange believes that the proposed rule change to add text to specify that an ECO may trade with another ECO at the leg market price if the interest in the leg markets is insufficient to trade at that price (*i.e.,* the leg markets cannot trade at that price in full or in a permissible ratio), would continue to respect the priority of the leg markets at a price, but would also ensure that ECO trading opportunities are maximized after eligible interest in the leg markets is exhausted at that price resulting in more efficient executions. The Exchange notes that this proposed functionality—with the exception of the Exchange's distinct priority model—is otherwise identical to Arca Options Rule 6.91P–O(e) and is consistent with the rule of another options exchange and is therefore not new or novel.[71]

In addition, the Exchange believes that allowing Complex Only Orders to trade up to the DBBO unless there is displayed Customer interest on each leg on the Exchange at the DBBO (as described above) would provide market participants additional trading opportunities while still protecting Customer interest on the Exchange, which would, in turn, remove impediments to and perfect the mechanism of a free and open market and national market system.

The Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and national market system to specify that ECOs will not trade with orders in the leg markets designated AON, FOK or with an MTS modifier (consistent with Arca Options Rule 6.91P–O) because it would add clarity and transparency regarding the handling of ECOs vis a vis these single-leg order types that are conditional based on order size. The Exchange further believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system for ECOs to trade as Complex Only Orders (rather than be rejected as they would under current rules) if they have a complex strategy that could result in a Market Maker breaching their established risk settings.[72] This proposed process is also identical to Arca Options Rule 6.91P–O(e)(1)(D) and is consistent with the treatment of similar ECOs on other options markets.[73] The Exchange further believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to specify the frequency with which the Exchange would evaluate trading opportunities for an ECO when the leg markets update because it would promote clarity and transparency in Exchange rules.

Overall, the Exchange believes the proposal for ECO trading during Core Trading Hours would help maintain a fair and orderly market and would benefit investors by facilitating increased interaction between ECOs (not designated as Complex Only) and leg markets interest. In particular, such ECOs would execute against interest in the leg markets for all of the quantity available at the best price in a permissible ratio until the quantities remaining on such leg markets are insufficient to execute against the ECO while respecting the spread ratio. The Exchange believes that requiring Complex Only Orders to improve at least a portion of the displayed Customer interest on the leg markets when all legs of a complex strategy contain displayed Customer interest would provide market participants with additional trading opportunities while still protecting displayed Customer interest on the Exchange. To the extent that this proposed handling of ECOs on the Exchange during Core Trading Hours results in greater liquidity (because of increased opportunity for order execution) this increased liquidity should, in turn, enhance execution quality.

Execution of ECOs During a COA

The Exchange believes that proposed Rule 980NYP(f), setting forth the execution of ECOs during a COA, would remove impediments to and perfect the mechanism of a free and open market and a national market system and promote just and equitable principles of trade because the proposed functionality would both incorporate existing functionality to provide that COA Orders would trade solely with other ECOs (and not the leg markets) during the auction. The Exchange believes that relying on the proposed DBBO (and binding such DBBO by the maximum allowable Away Market Deviation when the Exchange BBO is used to calculate the DBBO for a leg) would benefit market participants as the proposed operation of the DBBO would provide additional price protection in ECO trading, including during a COA, and would add clarity and transparency to the rules. The Exchange also believes that the proposed text would make clear that the COA Order would trade with the best-priced RFR Responses received in the COA, beginning with Customer interest at a price followed by same-priced non-Customer interest. In addition, the proposed text would also include the additional detail that non-Customer RFR Responses are capped at the remaining size of the COA Order for purposes of pro rata allocation, which is consistent with current functionality as relates to non-Customer RFR Responses. However, on Pillar, Customer RFR Responses would trade in time and would not be subject to a pro rata allocation, which proposed handling is consistent with the Exchange's Customer priority model, which change would add clarity, transparency and internal consistency to Exchange rules.[74]

The Exchange also believes that the proposed change to add reference to quotes (in addition to orders) to Rule 980NYP(f)(5) (Prohibited Conduct) regarding the COA Process, would benefit market participants as it would broaden the scope of such the prohibition. Overall, the Exchange believes the proposed rule, which is substantively identical to Arca Options Rule 6.91P–O(f) except for the difference to account for the Exchange Customer priority/pro rata allocation model, would add clarity and transparency to ATP Holders utilizing the COA process.

In addition, the Exchange further believes that the proposed changes to the COA process on Pillar that either differ from current functionality or that would be new would remove impediments to and perfect the mechanism of a free and open market and national market system because:

[71] *See* BOX Rule 7240(b)(2)(ii).

[72] *See* discussion *infra* regarding rationale for proposed Rule 980NYP(e) to restrict certain ECOs from executing as a package and bypassing Market Maker risk settings.

[73] *See supra* notes 52 and 53 [sic] (citing to Cboe Rule 5.33(g) and Nasdaq ISE Options 3, Section 14 (d)(3)(A)–(B) regarding similar functionality).

[74] *See, e.g.,* Rules 964NY(b)(2)(A) (regarding priority of displayed Customer interest based on time) and (b)(2)(D) (providing that non-Customer interest is subjected to pro rata allocation); *see also* proposed Rule 964NYP(h)(3) (regarding non-Customers in ''size pro rata pool'') and (j) (regarding allocation of Customer and non-Customer interest) as described in the American Pillar Priority Filing).

• Requiring that a COA Order initiate a COA on arrival, or else be treated as a standard ECO, is new under Pillar as, per the current Rule, a COA Order may sit on the Consolidated Book until market conditions change such that it may initiate a COA. The Exchange believes the proposed change would provide ATP Holders with a higher level of transparency and determinism of when a COA Order could initiate a COA and would also encourage market participants to submit aggressively-priced orders in order to qualify for initiation of a COA, which better-priced interest benefits all investors and improves market quality.

• Making explicit that COA Orders may only execute with ECOs (and not the leg markets) until after the COA ends is consistent with current functionality, per Rule 980NY(e)(2), but is designed to make clear that ECOs have priority during a COA.

• Streamlining the rule text that would describe the market events that, under Pillar, would cause an early end to a COA would simplify the COA process and would provide ATP Holders with a higher level of transparency and determinism regarding the handling of COA Orders.

• Allowing a COA to end early based on the DBBO, which may be calculated using ABBO leg prices, would benefit market participants and promote internal consistency because, as proposed, such early termination would prevent COA Orders from executing at prices too far away from the prevailing market for that complex strategy. In addition, the DBBO is used to determine the execution of ECOs on the Exchange, including whether such ECO may initiate a COA as a COA Order. As such, the Exchange believes it is appropriate and to the benefit of market participants that the early termination of a COA likewise be based on the DBBO—regardless of whether the prices used to calculate such DBBO include (or consist entirely of) ABBO prices.

• Requiring that a COA Order end early upon receipt of a Complex CUBE Order would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would allow the Exchange to simplify technology on Pillar and would allow the Exchange to determine the viability of a CUBE Order (*i.e.,* whether the price of such order meets the pricing requirements to initiate a Complex CUBE Auction per Rule 971.2NY). A COA Order that is subject to the early end of a COA because of the arrival of a Complex CUBE Order would still have the opportunity to trade with the Complex CUBE Order if such COA Order is on the opposite side of the market or with other interest once it is resting on the Consolidated Book.

ECO Risk Checks

The Exchange believes that proposed Rule 980NYP(g), setting forth ECO Risk Checks, which are identical to those set forth per Arca Options Rule 6.91P–O(g), would remove impediments to and perfect the mechanism of a free and open market and a national market system and promote just and equitable principles of trade because the proposed functionality would incorporate existing risk controls, without any substantive differences. The Exchange further believes that the proposed changes to ECO Risk Checks on Pillar that either differ from current functionality or would be new would remove impediments to and perfect the mechanism of a free and open market and national market system because:

• The Exchange believes that the new Complex Strategy Limit (which is conceptually similar to the Complex Order Table Cap under the current Rule) would help maintain a fair and orderly market because it would operate as a system protection tool that enables the Exchange to prevent any single MPID from creating more than a limited number of complex strategies during the trading day. The proposed limits are not novel and are based on limits imposed in Arca Options Rule 6.91P–O(g)(1) as well as by other options exchanges on new complex order strategies.[75]

• The proposed ECO Price Protection on Pillar would work similarly to how the current ECO price protection mechanism functions on the Exchange because an ECO would be rejected if it is priced a specified percentage away from the contra-side Complex NBB or NBO.[76] The Exchange believes that the proposed differences on Pillar, to use new thresholds and reference prices, would not only simplify the existing price check, but it would also align the proposed functionality with Arca Options Rule 6.91P–O, thus adding uniformity across the Exchange's options platforms. Although the mechanics of the ECO Price Protection would vary slightly from the existing Price Protection Filter, the goal of this feature would remain the same: prevent the execution of ECOs that are priced too far away from the prevailing market for the same strategy and therefore potentially erroneous to be benefit of market participants.

• The proposed Pillar Complex Strategy Protections would function similarly to the current Debit/Credit Reasonability Checks because erroneously priced incoming ECOs would be rejected. Consistent with current functionality, the proposed Complex Strategy Protections are designed to prevent the execution of ECOs at prices that are inconsistent with/not aligned with their strategies to the benefit of market participants. The Exchange believes that the non-substantive differences to focus on the expectation of the ECO sender and what would result if the ECO were not rejected rather than refer to specified debit or credit amounts as a way to determine whether a given strategy is erroneously priced would remove impediments to and perfect the mechanism of a free and open market system because it would promote clarity and transparency in Exchange rules.

Rule 935NY

The Exchange believes that the proposed non-substantive change to Rule 935NY to update references to ''COA'' (versus COA Process) and ''the Exchange,'' to delete reference to ''System,'' and add the reference to Rule 980NYP 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 because the proposed conforming changes would add clarity, transparency and consistency to the Exchange's rules. The Exchange believes that market participants would benefit from the increased clarity, thereby reducing potential confusion. Similarly, the Exchange believes that adding a cross-reference to proposed Rule 980NYP(f) and extending the exemption from the one-second order exposure requirement of Rule 935NY would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote clarity and transparency of which Pillar rules would be eligible for the exception specified in that Rule.

As previously stated, the Exchange believes that the proposed Response Time Interval for a COA (*i.e.,* no less than 100 milliseconds) is of sufficient length so as to permit ATP Holders time to respond to a COA. As such, the Exchange believes the proposed rule change would provide the order sender with a timely execution of its COA

[75] *See supra* note 61 [sic] (citing Cboe Rule 5.33(a) and MIAX Rule 518(a)(6) regarding each exchange's ability to limit the number of new complex strategies in their systems at any particular time).

[76] As noted above, the Exchange proposes to define the Complex NBBO as the derived national best bid and derived national best offer for a complex strategy calculated using the NBB and NBO for each component leg of a complex strategy. *See* proposed Rule 980NYP(a)(2).

Order, while ensuring that there is an adequate exposure of such order. Accordingly, the Exchange proposes to amend Rule 935NY(iii) to extend the exemption from the one-second order exposure requirement to COA Orders under Pillar, which exemption is consistent with the treatment of similar orders on other options exchanges.[77] Consistent with Rule 935NY, Commentary .01, ATP Holders would only utilize the COA where there is a genuine intention to execute a bona fide transaction.[78]

* * * * *

For the reasons set forth above, the Exchange believes proposed Rule 980NYP, regarding ECO trading, including the priority and execution of such ECOs vis a vis the leg markets, is consistent with the goals of the Act to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a competitive market and regularly competes with other options exchanges for order flow. The Exchange believes that the transition to Pillar for trading of ECOs on its options trading platform would promote competition among options exchanges by offering a low-latency platform that offers more deterministic outcomes for trading interest, which, in turn, facilities ECO trading on a continuous and real-time basis on the Exchange.

The proposed rule changes would support that inter-market competition by allowing the Exchange to offer additional functionality to its ATP Holders, thereby potentially attracting additional order flow to the Exchange. Otherwise, the proposed changes are not designed to address any competitive issues, but rather to amend the Exchange's rules relating to trading of ECOs to support the transition to Pillar. As discussed in detail above, with this rule filing, the Exchange is not proposing to change its core functionality regarding the treatment of ECOs. Rather, the Exchange believes that the proposed rule changes would promote consistent use of terminology to support options trading on the Exchange (and to promote uniformity with its affiliated exchange Arca Options), making the Exchange's rules easier to navigate. The Exchange does not believe that the proposed rule changes would raise any intra-market competition as the proposed rule changes would be applicable to all ATP Holders, and reflects the Exchange's existing treatment of ECOs, without proposing any material substantive changes. As noted herein, proposed Rule 980NYP is substantively the same as Arca Options Rule 6.91P–O except as noted herein (including to account for the Exchange's Customer priority/pro rata allocation model).

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

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 Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAMER–2023–17.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2023–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2023–17, and should be submitted on or before April 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[79]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–05444 Filed 3–16–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97131; File No. SR–MEMX–2023–02]

Self-Regulatory Organizations; MEMX LLC; Notice of Withdrawal of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt Market Data Fees

March 13, 2023.

On January 17, 2023, MEMX LLC (''MEMX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the

[77] *See supra* note 68 [sic] (regarding Arca Options Rule 6.47A–O (iii)).

[78] *See supra* note 69 [sic] (regarding Rule 935NY, Commentary .01).

[79] 17 CFR 200.30–3(a)(12).

Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Fee Schedule to adopt fees for its market data products. 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 February 3, 2023.[4] On February 28, 2023, MEMX withdrew the proposed rule change (SR–MEMX–2023–02).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–05449 Filed 3–16–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97126; File No. SR–GEMX–2023–04]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of Certain Trading Functionality

March 13, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2023, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delay the implementation of certain trading functionality rule changes.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/gemx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In connection with a technology migration to an enhanced Nasdaq, Inc. (''Nasdaq'') functionality, the Exchange filed various rule changes to adopt certain trading functionality currently utilized at Nasdaq affiliate exchanges. At this time, the Exchange proposes to delay the implementation of the various rule changes. Each impacted rule change and the new implementation date is described below.

Impacted Rule Filings

The Exchange filed the following rule changes in connection with its technology migration:

- SR–ISE–2022–11 which impacts GEMX routing; [3]
- SR–GEMX–2022–10 which amended ATR and Repricing Rules; [4]
- SR–GEMX–2022–13 which amended PIM; [5] and
- SR–GEMX–2023–02 a rule change amending multiple functionalities.[6]

Each of the aforementioned rule changes (collectively ''Impacted Rule Changes'') indicated that the technology migration for GEMX would commence prior to September 1, 2023 or Q3.

New Implementation

At this time, the Exchange proposes to delay the implementation of the Impacted Rule Changes, which all relate to GEMX's upcoming technology migration, to a date prior to December 29, 2023. The Exchange will announce the initial migration date and symbol rollout schedule to Members in an Options Trader Alert.

The Exchange proposes to delay the migration to allow the Exchange and its Members additional time to test the new functionality.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest for the reasons discussed below. The Exchange proposes to delay the implementation of the Impacted Rule Changes, which all relate to GEMX's upcoming technology migration, a few months to allow the Exchange and its Members additional time to test the new functionality. The Exchange believes that the delay is consistent with the Act because the additional time will allow the Exchange to ensure a successful migration while protecting investors and the public interest by allowing the Exchange and Members more time to test.

The Exchange notes that the substance of the impacted rules is not changing, only the implementation timeline is changing with this proposal.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to delay the implementation of the Impacted Rule

[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. 96775 (January 30, 2023), 88 FR 7487.

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 94897 (May 12, 2022), 87 FR 30294 (May 18, 2022) (SR–ISE–2022–11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Routing Functionality in Connection With a Technology Migration). GEMX Options 5 Rules incorporate ISE Options 5 by reference.

[4] *See* Securities Exchange Act Release No. 96363 (November 18, 2022), 87 FR 72556 (November 25, 2022) (SR–GEMX–2022–10) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend ATR and Re-Pricing Rules in Connection With a Technology Migration to Enhanced Nasdaq Functionality).

[5] *See* Securities Exchange Act Release No. 96519 (December 16, 2022), 87 FR 78717 (December 22, 2022) (SR–GEMX–2022–13) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Certain Functionality in Connection With a Technology Migration).

[6] *See* Securities Exchange Act Release No. 96817 (February 6, 2023), 88 FR 8922 (February 10, 2023) (SR–GEMX–2023–02) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules in Connection with the Technology Migration to Enhanced Nasdaq Functionality).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

Changes for a few months does not impose an undue burden on competition. The proposed delay will allow the Exchange and its Members additional time to test the new functionality.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2023–04 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–GEMX–2023–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2023–04 and should be submitted on or before April 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–05445 Filed 3–16–23; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–315, OMB Control No. 3235–0357]

Submission for OMB Review; Comment Request; Extension: Regulation S

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Regulation S (17 CFR 230.901 through 230.905) sets forth rules governing offers and sales of securities made outside the United States without registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). Regulation S clarifies the extent to which Section 5 of the Securities Act applies to offers and sales of securities outside of the United States. Regulation S is assigned one burden hour for administrative convenience.

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by April 17, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: March 13, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–05429 Filed 3–16–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97123; File No. SR–LTSE–2023–01]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Establish Listing Standards Related To Recovery of Erroneously Awarded Incentive-Based Executive Compensation

March 13, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 27, 2023, Long-Term Stock Exchange, Inc. (''LTSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change. On March 9, 2023, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded and replaced the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1, is described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

LTSE is filing with the Commission a proposed rule change as modified by Amendment No. 1 [3] to adopt Listing Standards for the Recovery of Erroneously Awarded Compensation, as required by Rule 10D–1 of the Act.[4] The text of the proposed rule change is available at the Exchange's website, at *https://longtermstockexchange.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 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 on the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is filing this amendment to SR–LTSE–2023–01 (''Amendment 1'') in order to (i) clarify the purpose and rationale of the proposed rule change; and (ii) make technical changes to improve the structure and clarity of the proposed rules. This Amendment 1 supersedes and replaces the initial rule proposal in its entirety (the ''Initial Proposal'').

LTSE filed the Initial Proposal with the Commission on February 27, 2023 pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[5] and Rule 19b–4 [6] thereunder, proposing rule changes to establish listing standards for the recovery of erroneously awarded executive compensation as required by Rule 10D–1 of the Act.[7]

The Exchange is proposing amendments to Chapter 14 of its rules (LTSE Listing Rules) to establish listing standards for the recovery of erroneously awarded executive compensation as required by Rule 10D–1 and to address situations where a listed company has not complied with Rule 10D–1 and the Exchange's listing standards established pursuant thereto.

The Exchange proposes to amend Rule 14.203, Prerequisites for Applying to List on the Exchange, by adding new paragraph (j), which will require that all Companies listing on LTSE must, as required by Rule 10D–1, comply with the requirements of proposed Rule 14.207(f), Recovery of Erroneously Awarded Compensation to Executive Officers.

The Exchange is further proposing to amend LTSE Rules 14.207, Obligations for Companies Listed on the Exchange, paragraph (f), to establish ''Listing Standards for the Recovery of Erroneously Awarded Compensation.'' The current text of paragraph (f) of Rule 14.207 will be repositioned into a new paragraph (g).

On October 26, 2022, the Commission adopted a new rule and rule amendments [8] to implement Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd Frank Act''),[9] which added Section 10D to the Act. This final Rule 10D–1 adopted by the Commission directs national securities exchanges and associations that list securities to establish listing standards that require each issuer to adopt, comply with, and disclose a written policy providing for the reasonably prompt recovery, in the event of required accounting restatement, of incentive-based compensation received by current or former executive officers during the three fiscal years preceding the date on which the issuer is required to prepare an accounting restatement to correct a material error. As required by Rule 10D–1 and proposed Rule 14.207(f) titled ''Recovery of Erroneously Awarded Compensation to Executive Officers,'' any Company listed on LTSE must adopt a compensation recovery policy, comply with that policy, and provide the required disclosures.

Additionally, as explained in the Rule 10D–1 adopting release [10] (the ''Adopting Release''), each listed issuer is required to file its written recovery policies as exhibits to its annual report; indicate, by check boxes on the annual reports, whether the financial statements included in the filing contain a correction of an error in previously-issued financial statements and whether any of the reported error corrections constitute restatements that required a recovery analysis under the issuer's recovery policies; and finally, to disclose any actions taken through the application of the recovery policies.

Rule 10D–1 requires that issuers recover reasonably promptly the amount of erroneously-awarded executive compensation. Compliance by an issuer with this obligation will be reviewed in the context of each accounting restatement prepared by the issuer, and will include the means used to seek recovery and whether such means are appropriate based on the discrete circumstances of each executive officer who is determined to be subject to recovery of erroneously awarded compensation.

Rule 10D–1 became effective on January 27, 2023; national securities exchanges and national securities associations that list securities were

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This Amendment No. 1 to the rule filing SR–LTSE–2023–01 replaces SR–LTSE–2023–01 as originally filed on February 27, 2023 and supersedes that filing in its entirety.

[4] 17 CFR 240–10D–1.

[5] 15 U.S.C. 78s(b)(1).

[6] 17 CFR 240–19b–4.

[7] 17 CFR 240–10D–1.

[8] *See,* Release Nos. 33–11126; 34–96159; IC–34732; File No. S–7–12–15; 87 FR 73076 (November 28, 2022).

[9] 2 Public Law No. 111–203, 124 Stat. 1900 (2010).

[10] Securities Exchange Act Release No. 96159 (October 26, 2022), 87 FR 73076 (November 28, 2022).

required to file proposed listing standards no later than February 27, 2023 and such listing standards must be effective no later than November 28, 2023. Issuers subject to the Exchange's listing standards will have 60 days following the effective date of such standards to adopt a recovery policy.

As required by Rule 10D–1 and proposed Rule 14.207(f), any Company listed on LTSE must adopt a compensation recovery policy, comply with that policy, and provide the required compensation recovery policy disclosures.

The Exchange is proposing amendments to Chapter 14 of its rules (LTSE Listing Rules) to establish listing standards for the recovery of erroneously awarded executive compensation as required by Rule 10D–1.

The Exchange proposes to amend Rule 14.203, Prerequisites for Applying to List on the Exchange, by adding new paragraph (j), which will require that all Companies listing on LTSE must, as required by Exchange Act Rule 10D–1, comply with the requirements of Rule 14.207(f) (Recovery of Erroneously Awarded Compensation to Executive Officers).

New Definitions

The Exchange is proposing to adopt the specific definitions of certain terms as contained in Rule 10D–1. These new definitions are being proposed solely for purposes of Rule 14.207(f). In new subparagraph (A) of Rule 14.207(f)(1), the Exchange defines ''Executive Officer'' as the Company's [11] president, principal financial officer, principal accounting officer (or the controller in the event there is no principal accounting officer), and vice-president in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions for the Company. Executive officers of the Company's parent(s) or subsidiaries are deemed executive officers of the Company if they perform such policy making functions for the Company. In addition, when the Company is a limited partnership, officers or employees of the general partner(s) who perform policy-making functions for the limited partnership are deemed officers of the limited partnership. When the Company is a trust, officers, or employees of the trustee(s) who perform policy-making functions for the trust are deemed officers of the trust. Policy-making function is not intended to include policy-making functions that are not significant. Identification of an executive officer for purposes of this Rule would include at a minimum executive officers identified pursuant to 17 CFR 229.401(b).

Proposed subparagraph (B) of Rule 14.207(f)(1) defines ''Financial Reporting Measures'' as those that are determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measures that are derived wholly or in part from such measures. Stock price and total shareholder return are also financial reporting measures. A financial reporting measure need not be presented within the financial statements or included in a filing with the Commission.

In proposed subparagraph (C) of Rule 14.207(f)(1), the Exchange defines ''Incentive-based Compensation'' as any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a financial reporting measure. Finally, proposed subparagraph (D) of Rule 14.207(f)(1) provides that the term ''Received'' with respect to incentive-based compensation as meaning that such compensation is deemed received in the Company's fiscal period during which the financial reporting measure specified in the incentive-based compensation award is attained, even if the payment or grant of the incentive-based compensation occurs after the end of that period. The provision is intended to provide clarification and avoid doubt when determining when incentive based compensation that is subject to the rule was received.

Requirement To Adopt, Implement and Disclose a Recovery Policy for Incentive-Based Executive Compensation

Proposed Rule 14.207(f)(2) requires that every Company that lists its securities on the Exchange must, no later than 60 days of the effective date of this rule, which is the date that the Commission approves this rule filing SR–LTSE–2023–01, adopt and comply with a written policy requiring such issuer to recover reasonably promptly the amount of erroneously awarded incentive-based compensation to any executive officer in the event that the Company is required to prepare an accounting restatement due to material non-compliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct a material error in previously issued financial statements that is material to the previously issued financial statements, or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period.

This provision is intended to align with the requirements of Rule 10D–1 and embed in the Exchange's listing rules the requirement to establish and enforce a written recovery policy as a requirement for listing on LTSE.

In proposed Rule 14.207(f)(2)(B), the Exchange requires that every Company listed on the Exchange disclose its written recovery policy as part of its reporting obligations to the Commission, as an exhibit to its Annual Report, and to the Exchange. Companies applying for initial listing must include its written recovery policy as part of its listing application. The Exchange will not act on any new listing application unless the recovery policy is included with the initial listing application. Proposed Rule 14.203(j), as discussed above, also notes as part of the prerequisites for applying to list on the Exchange, as required by Rule 10D–1, any Company listing on the Exchange must comply with proposed rule 14.207(f).

In proposed Rule 14.207(f)(3), Application of the Recovery Policy to Executive Officers, the Exchange states that the recovery policy shall apply to all incentive-based compensation received by a person: (A) after beginning service as an executive officer of the Company; (B) who served as an executive officer at any time during the performance period for that incentive-based compensation; (C) while the Company had a class of securities listed on a national securities exchange or a national securities association; and (D), during the three completed fiscal years immediately preceding the date that the Company is required to prepare an accounting restatement as described in proposed Rule 14.207(f). In addition to the last three completed fiscal years, the recovery policy must apply to any transition period (that results from a change in the Company's fiscal year) within or immediately following those three completed fiscal years. However, a transition period between the last day of the Company's previous fiscal year end and the first day of its new fiscal year

[11] The Exchange notes that, throughout the proposed rule text, it uses the term ''Company'' rather than ''issuer'' to apply consistent terminology that is used throughout the Exchange's Listing Rules. Rule 14.002(a)(5) defines ''Company'' to mean the issuer of a security listed or applying to list on the Exchange. For purposes of the Exchange's listing rules, the term ''Company'' includes an issuer that is not incorporated, such as, for example, a limited partnership.

that comprises a period of nine to 12 months would be deemed a completed fiscal year. A Company's obligation to recover erroneously awarded compensation is not dependent on if or when the restated financial statements are filed.

For purposes of determining the relevant recovery period, the Exchange proposes in Rule 14.207(f)(4) that the date that a Company is required to prepare an accounting restatement as described in paragraph (f) of the Rule is the earlier to occur of: (A) the date the Company's board of directors, a committee of the board of directors, or the officer or officers of the Company authorized to take such action if board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an accounting restatement as described in paragraph (f) of this Rule; or (B) the date a court, regulator, or other legally authorized body directs the Company to prepare an accounting restatement as described in paragraph (f) of this Rule.

Determining Amount of Incentive-Based Compensation Subject to the Company's Recovery Policy

Proposed Rule 14.207(f)(5)(A) states that the amount of incentive-based compensation that must be subject to the Company's recovery policy (''erroneously awarded compensation'') is the amount of incentive-based compensation received that exceeds the amount of incentive-based compensation that otherwise would have been received had it been determined based on the restated amounts, and must be computed without regard to any taxes paid. Proposed subparagraph (B) states that, for incentive-based compensation based on stock price or total shareholder return, where the amount of erroneously awarded compensation is not subject to mathematical recalculation directly from the information in an accounting restatement: (i) the amount must be based on a reasonable estimate of the effect of the accounting restatement on the stock price or total shareholder return upon which the incentive-based compensation was received; and (ii) the Company must maintain documentation of the determination of that reasonable estimate and provide such documentation to the Exchange. These provisions are intended to address and clarify how erroneously awarded compensation calculations will be treated when it involves factors not readily obtained through an analysis of the accounting restatement.

Rule 10D–1 requires that a listed Company recover the amount of erroneously-awarded incentive-based compensation reasonably promptly [12] but does not specify the time by which the Company must complete the recovery of excess incentive-based compensation. LTSE will determine whether the steps that a Company is taking constitutes compliance with its compensation recovery policy. The Company's obligation to recover erroneously-awarded incentive based compensation reasonably promptly will be assessed on a holistic basis with respect to each such accounting restatement prepared by the Company. In evaluating whether the Company is recovering erroneously-awarded executive compensation reasonably promptly, the Exchange will consider whether the Company is pursuing the appropriate balance of cost and speed in determining the appropriate means to seek recovery, and whether the Company is securing recovery through means that are appropriate based on the particular facts and circumstances of each executive officer that owes a recoverable amount.

Exceptions to Requirement To Recover Erroneously Awarded Compensation

Proposed Rule 14.207(f)(6), Exceptions to Requirement to Recover Erroneously Awarded Compensation, allows for certain exceptions to the application of the recovery policy. Specifically, Companies must recover erroneously awarded compensation in compliance with its recovery policy except to the extent that the conditions described subparagraphs (A), (B), or (C) of proposed Rule 14.207(f)(6) are met and the Company's Compensation Committee, or in the absence of such a committee, a majority of the independent directors serving on the board, has made a determination that recovery would be impracticable in consideration of those conditions.

Under subparagraph (A) of proposed Rule 14.207(f)(6), the direct expense paid to a third party to assist in enforcing the policy would exceed the amount to be recovered. Before concluding that it would be impracticable to recover any amount of erroneously awarded compensation based on expense of enforcement, the Company must make a reasonable attempt to recover such erroneously awarded compensation, document such reasonable attempt(s) to recover, and provide that documentation to the exchange or association. Under subparagraph (B), recovery would violate home country law where that law was adopted prior to November 28, 2022. Before concluding that it would be impracticable to recover any amount of erroneously awarded compensation based on violation of home country law, the Company must obtain an opinion of home country counsel, acceptable to the Exchange, that recovery would result in such a violation, and must provide such opinion to the Exchange. Under subparagraph (C), recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the registrant, to fail to meet the requirements of 26 U.S.C. 401(a)(13) or 26 U.S.C. 411(a) and regulations thereunder.

In proposed Rule 14.207(f)(7), Indemnification Of Executive Officers by the Company Prohibited, the Exchange makes clear that a Company is prohibited from indemnifying any executive officer or former executive officer against the loss of erroneously awarded compensation. This provision is intended to assure that executive officers who otherwise would be subject to the recovery rule do not avoid a financial consequence by having the Company indemnify them. Absent this provision, the recovery rule would lose substantial impact and would not be as effective in influencing executive management actions.

Proposed Rule 14.207(f)(8) reinforces the disclosure requirements and provides that Companies are required to file all disclosures with respect to its Recovery Policy in accordance with the requirements of the Federal securities laws, applicable Commission filings, and the Rules of the Exchange.

The Exchange further proposes certain general exemptions in Rule 14.207(f)(9): that the requirements of Rule 14.207(f) shall not apply to the listing of any security issued by a unit investment trust, as defined in 15 U.S.C. 80a–4(2) and any security issued by a management company as defined in 15 U.S.C. 80(a)–4(3) that is registered under Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8, if such management company has not awarded incentive-based compensation to any executive officer of the Company in any of the last three fiscal years, or in the case of a Company that has been listed less than three fiscal years, since the listing of the Company. These exemptions are proposed to align with

[12] The Commission stated that it: ''recognize(s) that what is reasonable may depend on the additional cost incident to the recovery efforts. [The Commission] expects[s] that issuers and their directors and officers, in the exercise of their fiduciary duty to safeguard the assets of the issuer (including the time value of any potentially recoverable compensation), will pursue the most appropriate balance of cost and speed in determining the appropriate means to seek recovery.'' *See,* Adopting Release at 73104.

the exemptions provided in Rule 10D–1.

As provided in Rule 10D–1, LTSE proposes to require under Rule 14.207(f)(10) that each Company is required to (i) adopt a policy governing the recovery of erroneously awarded compensation as required by this rule no later 60 days following the effective date of this rule (the date of the Commission's approval of SR–LTSE–2023–01); and (ii) provide the disclosures required by this rule and in the applicable Commission filings on or after such effective date of this rule (the date of the Commission's approval of SR–LTSE–2023–01). Notwithstanding the look-back requirements in Rule 14.207(f), a Company is only required to apply the recovery policy to incentive-based executive compensation received after the effective date of this rule (the date of the Commission's approval of SR–LTSE–2023–01).

As proposed, a Company will be subject to delisting by the Exchange if it does not adopt, comply with, and disclose its policy on recovery of erroneously awarded executive compensation. Any Company that has failed to meet the requirements of the Rule will not be allowed to list on LTSE or, if listed, will be subject to provisions of LTSE Rule 14.500 (Failure to Meet Listing Standards) and the procedures set forth in Rules 14.501, 14.502 and 14.503. The Exchange is proposing to amend Rule 14.501(d)(2)(A)(iii) to provide that a Company that has failed to comply with the requirements of Rule 14.207(f) is required to submit to LTSE a plan to regain compliance. The Exchange proposes to utilize its existing administrative process for addressing corporate governance deficiencies for violations of Rule 10D–1, subject to certain amendments described below. The Exchange believes that using the existing process is appropriate in that it applies a consistent process for rectifying corporate governance deficiencies to which listed Companies are already subject.

However, the Exchange is proposing amendments to Rule 14.500(b)(5), which defines a Public Reprimand Letter, and Rule 14.501, Notification of Deficiency by LTSE Regulation, to exclude a violation of Rule 10D–1 from the deficiencies in listing standards for which a Public Reprimand Letter is appropriate under Rule 14.500 and state that Public Reprimand Letters may not be issued for violations of the listing standards required by Rule 10D–1 and proposed LTSE Rule 14.207(f). A conforming amendment is proposed for Rule 14.502, Review of Staff Determination by the Listings Review Committee. Currently, the rule text in Rule 14.502(1)(C), states that the Exchange's Listing Review Committee may, where it deems appropriate: ''issue a decision that serves as a Public Reprimand letter in cases where the Company has violated an Exchange corporate governance or notification Listing standard (other than one required by Rule 10A–3 of the Act) and the Listing Review Committee determines that delisting is an inappropriate sanction. . . .'' The Exchange proposes to include Rule 10D–1 as a governance and notification listing standard that is ineligible for the disposition by a Public Reprimand Letter upon a review or a delisting proceeding by the Listings Review Committee.

The Exchange is proposing these amendments because it does not believe that issuance of a Public Reprimand Letter in situations where a listed Company has failed to meet its obligations regarding the recovery of erroneously awarded executive compensation is consistent with the provisions of Rule 10D–1.

2. Statutory Basis

The Exchange believe that the proposed rule change is consistent with the provisions of Section 6 of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Further, the Exchange believes that the proposal is not designed to permit unfair discrimination between issuers or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange, for the reasons set forth below.

First, and importantly, the Exchange is proposing to adopt these rules as required under Section 10D of the Act and Rule 10D–1. The requirement that national securities exchanges that list equity securities, such as LTSE, embed the requirements of the statute and the regulation into its listing rules is intended to effectuate compliance and ensure consistency across the rules of every exchange. The Exchange believes that these proposals protect investors and the public interest by requiring Companies, with certain exemptions, that in the event the Company is required to prepare an accounting restatement, to recover reasonably promptly erroneously awarded incentive-based compensation paid to current or former executive officers based on any misstated financial measure. These proposed amendments will also help to foster effective oversight of executive compensation and provide increased accountability and transparency to investors by not allowing executive officers to retain compensation that they were awarded erroneously. The Exchange believes that the recovery requirement will operate to provide executive officers with an increased incentive to take steps to reduce the likelihood of inadvertent misreporting and will reduce the financial benefits to executive officers who pursue impermissible accounting methods, which the Commission expects will further reduce such behavior.[15]

LTSE further believes that the proposal to provide that a Company that had failed to comply with the requirements of Rule 14.207(f) is required to submit to the Exchange a plan to regain compliance is consistent with the investor protection objectives of Section 6(b)(5) of the Act[16] because the Exchange's process for addressing such deficiencies will follow the established pattern used for similar corporate governance deficiencies, to which listed Companies are already subject and are familiar with.

The Exchange believes that its proposed rule change is fair and not unfairly discriminatory. As stated in the Adopting Release, ''[t]o assure that issuers listed on different exchanges are subject to the same disclosure requirements regarding erroneously awarded compensation recovery, amendments to the Commission's disclosure rules require all issuers listed on any exchange to file their written compensation policies as an exhibit to their annual reports. . . .''[17] Additionally, because issuers listed on different exchanges will be subject to the same disclosure requirements regarding erroneously awarded compensation it alleviates any additional compliance burdens that could result, absent uniform treatment across all exchanges. The Exchange

[13] Id.

[14] 15 U.S.C. 78f(b)(5).

[15] See, Rule 10D–1 Adopting Release at 87 FR 73077.

[16] 15 U.S.C. 78(b)(5).

[17] See, 87 FR 73078.

further believes that the proposed amendments are consistent with the protection of investors and the public interest by imparting uniformity of the exchanges' rules on erroneously awarded executive compensation, as required by Rule 10D–1.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, as discussed in the Statutory Basis section, LTSE believes that the proposed amendments will impose no burden on competition in that every publicly traded company will be required to comply with the Rule 10D–1, and every national securities exchange that lists securities will be required to adopt essentially the same rules regarding erroneously awarded compensation as part of their original and continued listing requirements. Given these factors, the Exchange does not believe that there will be any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or 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:

(A) by order approve or disapprove the 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, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–LTSE–2023–01 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–LTSE–2023–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–LTSE–2023–01 and should be submitted on or before April 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–05442 Filed 3–16–23; 8:45 am]

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[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97130; File No. SR–MEMX–2023–04]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt Market Data Fees

March 13, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2023, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members[3] and non-Members (the ''Fee Schedule'') pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on March 1, 2023.

The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1.5(p).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The purpose of the proposed rule change is to amend the Fee Schedule to adopt fees the Exchange will charge to Members and non-Members for each of its three proprietary market data feeds, namely MEMOIR Depth, MEMOIR Top, and MEMOIR Last Sale (collectively, the ''Exchange Data Feeds''). The Exchange is proposing to implement the proposed fees immediately.

The Exchange previously filed the proposal on March 24, 2022 (SR–MEMX–2022–03) (the ''Initial Proposal''). The Exchange withdrew the Initial Proposal and replaced the proposal with SR–MEMX–2022–14 (the ''Second Proposal''). The Exchange withdrew the Second Proposal and replaced the proposal with SR–MEMX–2022–19 (the ''Third Proposal''). The Exchange withdrew the Third Proposal and replaced the proposal with SR–MEMX–2022–28 (the ''Fourth Proposal''). The Exchange withdrew the Fourth Proposal and replaced the proposal with SR–MEMX–2022–32 (the ''Fifth Proposal''). The Exchange withdrew the Fifth Proposal and replaced the proposal with SR–MEMX–2023–02 (the ''Sixth Proposal''). The Exchange recently withdrew the Sixth Proposal and is replacing it with the current proposal (SR–MEMX–2023–04).

The Exchange notes that it has previously included a cost analysis in connection with the proposed fees for the Exchange Data Feeds, however, the prior cost analysis coupled costs related to operating its trading system, or transaction services, with costs of producing market data. As described more fully below, in the Fifth Proposal, the Sixth Proposal, and this filing, the Exchange provides an updated cost analysis that focuses solely on costs related to the provision of the Exchange Data Feeds (the ''Cost Analysis''). Although the baseline Cost Analysis used to justify the fees was made with the Fifth Proposal, the fees themselves have not changed since the Initial Proposal and the Exchange still proposes fees that are intended to cover the Exchange's cost of producing the Exchange Data Feeds with a reasonable mark-up over those costs. Before setting forth the additional details regarding the proposal as well as the updated Cost Analysis conducted by the Exchange, immediately below is a description of the proposed fees.

Proposed Market Data Pricing

The Exchange offers three separate data feeds to subscribers—MEMOIR Depth, MEMOIR Top and MEMOIR Last Sale. The Exchange notes that there is no requirement that any Firm subscribe to a particular Exchange Data Feed or any Exchange Data Feed whatsoever, but instead, a Firm may choose to maintain subscriptions to those Exchange Data Feeds they deem appropriate based on their business model. The proposed fee will not apply differently based upon the size or type of Firm, but rather based upon the subscriptions a Firm has to Exchange Data Feeds and their use thereof, which are in turn based upon factors deemed relevant by each Firm. The proposed pricing for each of the Exchange Data Feeds is set forth below.

MEMOIR Depth

The MEMOIR Depth feed is a MEMX-only market data feed that contains all displayed orders for securities trading on the Exchange (*i.e.,* top and depth-of-book order data), order executions (*i.e.,* last sale data), order cancellations, order modifications, order identification numbers, and administrative messages.[4] The Exchange proposes to charge each of the fees set forth below for MEMOIR Depth.

1. *Internal Distribution Fee.* For the receipt of access to the MEMOIR Depth feed, the Exchange proposes to charge $1,500 per month. This proposed access fee would be charged to any data recipient that receives a data feed of the MEMOIR Depth feed for purposes of internal distribution (*i.e.,* an ''Internal Distributor''). The Exchange proposes to define an Internal Distributor as ''a Distributor that receives an Exchange Data product and then distributes that data to one or more data recipients within the Distributor's own organization.'' [5] The proposed access fee for internal distribution will be charged only once per month per subscribing entity (''Firm''). The Exchange notes that it has proposed to use the phrase ''own organization'' in the definition of Internal Distributor and External Distributor because a Firm will be permitted to share data received from an Exchange Data product to other legal entities affiliated with the Firm that have been disclosed to the Exchange without such distribution being considered external to a third party. For instance, if a company has multiple affiliated broker-dealers under the same holding company, that company could have one of the broker-dealers or a non-broker-dealer affiliate subscribe to an Exchange Data product and then share the data with other affiliates that have a need for the data. This sharing with affiliates would not be considered external distribution to a third party but instead would be considered internal distribution to data recipients within the Distributor's own organization.

2. *External Distribution Fee.* For redistribution of the MEMOIR Depth feed, the Exchange proposes to establish an access fee of $2,500 per month. The proposed redistribution fee would be charged to any External Distributor of the MEMOIR Depth feed, which would be defined to mean ''a Distributor that receives an Exchange Data product and then distributes that data to a third party or one or more data recipients outside the Distributor's own organization.'' [6] The proposed access fee for external distribution will be charged only once per month per Firm. As noted above, while a Firm will be permitted to share data received from an Exchange Data product to other legal entities affiliated with the Firm that have been disclosed to the Exchange without such distribution being considered external to a third party, if a Firm distributes data received from an Exchange Data product to an unaffiliated third party that would be considered distribution to data recipients outside the Distributor's own organization and the access fee for external distribution would apply.

3. *Non-Display Use Fees.* The Exchange proposes to establish separate non-display fees for usage by Trading Platforms and other Users (*i.e.,* not by Trading Platforms).[7] Non-Display Usage would be defined to mean ''any method of accessing an Exchange Data product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons.'' [8] For Non-Display Usage of the MEMOIR Depth feed not by Trading Platforms, the Exchange proposes to

[4] *See* MEMX Rule 13.8(a).

[5] *See* Market Data Definitions under the proposed MEMX Fee Schedule. The Exchange also proposes to adopt a definition for ''Distributor'', which would mean any entity that receives an Exchange Data product directly from the Exchange or indirectly through another entity and then distributes internally or externally to a third party.

[6] *See* Market Data Definitions under the proposed MEMX Fee Schedule.

[7] The Exchange proposes to define a Trading Platform as ''any execution platform operated as or by a registered National Securities Exchange (as defined in Section 3(a)(1) of the Exchange Act), an Alternative Trading System (as defined in Rule 300(a) of Regulation ATS), or an Electronic Communications Network (as defined in Rule 600(b)(23) of Regulation NMS).'' *See* Market Data Definitions under the proposed MEMX Fee Schedule.

[8] *See* Market Data Definitions under the proposed MEMX Fee Schedule.

establish a fee of $2,500 per month.[9] For Non-Display Usage of the MEMOIR Depth feed by Trading Platforms, the Exchange proposes to establish a fee of $2,500 per month. The proposed fees for Non-Display Usage will be charged only once per category per Firm.[10] In other words, with respect to Non-Display Usage Fees, a Firm that uses MEMOIR Depth for non-display purposes but does not operate a Trading Platform would pay $2,500 per month, a Firm that uses MEMOIR Depth in connection with the operation of one or more Trading Platforms (but not for other purposes) would pay $2,500 per month, and a Firm that uses MEMOIR Depth for non-display purposes other than operating a Trading Platform and for the operation of one or more Trading Platforms would pay $5,000 per month. The Exchange notes that while other exchanges have different rates for non-display usage by Trading Platforms and non-display usage not by Trading Platforms, and the Exchange has been operating with a similar structure, with this filing the Exchange is proposing the same flat fee (*i.e.,* $2,500) for both Non-Display Usage of the MEMOIR Depth by Trading Platforms and Non-Display Usage of the MEMOIR Depth feed not by Trading Platforms. The Exchange notes that, consistent with other exchanges, it previously has proposed and charged a lower fee for Non-Display Usage of the MEMOIR Depth feed not by Trading Platforms (*i.e.,* $1,500 per month) than the monthly fee for Non-Display Usage of the MEMOIR Depth by Trading Platforms (*i.e.,* $4,000 per month). The change to normalize the fee for both categories at $2,500 is revenue neutral to the Exchange, and thus, does not materially alter any of the cost analysis or revenue projections contained in this proposal. The Exchange further notes that while some firms who use the MEMOIR Depth feed for purposes other than operating a Trading Platform will be charged $1,000 more per month, firms operating Trading Platforms will have a reduced fee (*i.e.,* $1,500 less per month) as will firms who use the MEMOIR Depth feed for both types of Non-Display Usage (*i.e.,* $500 less per month).

4. *User Fees.* The Exchange proposes to charge a Professional User[11] Fee (per User) of $30 per month and a Non-Professional User[12] Fee (per User) of $3 per month. The proposed User fees would apply to each person that has access to the MEMOIR Depth feed for displayed usage. Thus, each Distributor's count will include every individual that accesses the data regardless of the purpose for which the individual uses the data. Internal Distributors and External Distributors of the MEMX Depth feed must report all Professional and Non-Professional Users in accordance with the following:

- In connection with a Distributor's distribution of the MEMOIR Depth feed, the Distributor must count as one User each unique User that the Distributor has entitled to have access to the MEMOIR Depth feed.
- Distributors must report each unique individual person who receives access through multiple devices or multiple methods (*e.g.,* a single User has multiple passwords and user identifications) as one User.
- If a Distributor entitles one or more individuals to use the same device, the Distributor must include only the individuals, and not the device, in the count. Thus, Distributors would not be required to report User device counts associated with a User's display use of the data feed.

5. *Enterprise Fee.* Other than the Digital Media Enterprise Fee described below, the Exchange is not proposing to adopt an Enterprise Fee for the MEMOIR Depth feed at this time.

6. *Digital Media Enterprise Fee.* As an alternative to User fees, a recipient Firm may purchase a monthly Digital Media Enterprise license to receive MEMOIR Depth for distribution to an unlimited number of Users for viewing via television, websites, and mobile devices for informational and non-trading purposes only. The Exchange proposes to establish a fee of $5,000 per month for a Digital Media Enterprise license to the MEMOIR Depth feed.

MEMOIR Top

The MEMOIR Top feed is a MEMX-only market data feed that contains top of book quotations based on equity orders entered into the System as well as administrative messages.[13] The Exchange proposes to charge each of the fees set forth below for MEMOIR Top.

1. *Internal Distribution Fee.* For the receipt of access to the MEMOIR Top feed, the Exchange proposes to charge $750 per month. This proposed access fee would be charged to any data recipient that receives a data feed of the MEMOIR Top feed for purposes of internal distribution (*i.e.,* an Internal Distributor). The proposed access fee for internal distribution will be charged only once per month per Firm.

2. *External Distribution Fee.* For redistribution of the MEMOIR Top feed, the Exchange proposes to establish an access fee of $2,000 per month. The proposed redistribution fee would be charged to any External Distributor of the MEMOIR Top feed. The proposed access fee for external distribution will be charged only once per month per Firm.

3. *Non-Display Use Fees.* The Exchange does not propose to establish non-display fees for usage by Trading Platforms or other Users with respect to MEMOIR Top.

4. *User Fees.* The Exchange proposes to charge a Professional User Fee (per User) of $0.01 per month and a Non-Professional User Fee (per User) of $0.01 per month. The proposed User fees would apply to each person that has access to the MEMOIR Top feed that is provided by an External Distributor for displayed usage. The Exchange does not propose any per User fees for internal distribution of the MEMOIR Top feed. Each External Distributor's count will include every individual that accesses

[9] Non-Display Usage not by Trading Platforms would include trading uses such as high frequency or algorithmic trading as well as any trading in any asset class, automated order or quote generation and/or order pegging, price referencing for smart order routing, operations control programs, investment analysis, order verification, surveillance programs, risk management, compliance, and portfolio management.

[10] The Exchange proposes to adopt note 1 to the proposed Market Data fees table, which would make clear to subscribers that use of the data for multiple non-display purposes or operate more than one Trading Platform would only be charged once per category per month. Thus, the footnote makes clear that each fee applicable to Non-Display Usage is charged per subscriber (*e.g.,* a Firm) and that each of the fees represents the maximum charge per month per subscriber regardless of the number of non-display uses or Trading Platforms operated by the subscriber, as applicable. The footnote further makes clear that a subscriber that uses the data for both Non-Display Usage by Trading Platforms and Non-Display Usage not by Trading Platforms will be charged the applicable fee for each category of Non-Display Usage only once, and those combined fees represent the maximum charge per subscriber with respect to Non-Display Usage.

[11] As proposed, a Professional User is any User other than a Non-Professional User. *See infra* note 12.

[12] As proposed, a Non-Professional User is a natural person or qualifying trust that uses Exchange Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.

[13] *See* MEMX Rule 13.8(b).

the data regardless of the purpose for which the individual uses the data. External Distributors of the MEMOIR Top feed must report all Professional and Non-Professional Users [14] in accordance with the following:

• In connection with an External Distributor's distribution of the MEMOIR Top feed, the Distributor must count as one User each unique User that the Distributor has entitled to have access to the MEMOIR Top feed.

• External Distributors must report each unique individual person who receives access through multiple devices or multiple methods (*e.g.,* a single User has multiple passwords and user identifications) as one User.

• If an External Distributor entitles one or more individuals to use the same device, the Distributor must include only the individuals, and not the device, in the count. Thus, Distributors would not be required to report User device counts associated with a User's display use of the data feed.

5. *Enterprise Fee.* As an alternative to User fees, a recipient Firm may purchase a monthly Enterprise license to receive MEMOIR Top for distribution to an unlimited number of Professional and Non-Professional Users. The Exchange proposes to establish a fee of $10,000 per month for an Enterprise license to the MEMOIR Top feed.

6. *Digital Media Enterprise Fee.* As an alternative to User fees, a recipient Firm may purchase a monthly Digital Media Enterprise license to receive MEMOIR Top for distribution to an unlimited number of Users for viewing via television, websites, and mobile devices for informational and non-trading purposes only. The Exchange proposes to establish a fee of $2,000 per month for a Digital Media Enterprise license to the MEMOIR Top feed.

MEMOIR Last Sale

The MEMOIR Last Sale feed is a MEMX-only market data feed that contains only execution information based on equity orders entered into the System as well as administrative messages.[15] The Exchange proposes to charge each of the fees set forth below for MEMOIR Last Sale.

1. *Internal Distribution Fee.* For the receipt of access to the MEMOIR Last Sale feed, the Exchange proposes to charge $500 per month. This proposed access fee would be charged to any data recipient that receives a data feed of the MEMOIR Last Sale feed for purposes of internal distribution (*i.e.,* an Internal Distributor). The proposed access fee for internal distribution will be charged only once per month per Firm.

2. *External Distribution Fee.* For redistribution of the MEMOIR Last Sale feed, the Exchange proposes to establish an access fee of $2,000 per month. The proposed redistribution fee would be charged to any External Distributor of the MEMOIR Last Sale feed. The proposed access fee for external distribution will be charged only once per month per Firm.

3. *Non-Display Use Fees.* The Exchange does not propose to establish separate non-display fees for usage by Trading Platforms or other Users with respect to MEMOIR Last Sale.

4. *User Fees.* The Exchange proposes to charge a Professional User Fee (per User) of $0.01 per month and a Non-Professional User Fee (per User) of $0.01 per month. The proposed User fees would apply to each person that has access to the MEMOIR Last Sale feed that is provided by an External Distributor for displayed usage. The Exchange does not propose any per User fees for internal distribution of the MEMOIR Last Sale feed. Each External Distributor's count will include every individual that accesses the data regardless of the purpose for which the individual uses the data. External Distributors of the MEMOIR Last Sale feed must report all Professional and Non-Professional Users [16] in accordance with the following:

• In connection with an External Distributor's distribution of the MEMOIR Last Sale feed, the Distributor must count as one User each unique User that the Distributor has entitled to have access to the MEMOIR Last Sale feed.

• External Distributors must report each unique individual person who receives access through multiple devices or multiple methods (*e.g.,* a single User has multiple passwords and user identifications) as one User.

• If an External Distributor entitles one or more individuals to use the same device, the Distributor must include only the individuals, and not the device, in the count. Thus, Distributors would not be required to report User device counts associated with a User's display use of the data feed.

5. *Enterprise Fee.* As an alternative to User fees, a recipient Firm may purchase a monthly Enterprise license to receive MEMOIR Last Sale for distribution to an unlimited number of Professional and Non-Professional Users. The Exchange proposes to establish a fee of $10,000 per month per Firm for an Enterprise license to the MEMOIR Last Sale feed.

6. *Digital Media Enterprise Fee.* As an alternative to User fees, a recipient Firm may purchase a monthly Digital Media Enterprise license to receive MEMOIR Last Sale for distribution to an unlimited number of Users for viewing via television, websites, and mobile devices for informational and non-trading purposes only. The Exchange proposes to establish a fee of $2,000 per month per Firm for a Digital Media Enterprise license to the MEMOIR Last Sale feed.

Additional Discussion—Background

In two years, MEMX has grown from 0% to monthly market share ranging between 3–4% of consolidated trading volume. During that same period, the Exchange has had a steady increase in the number of subscribers to Exchange Data Feeds. Until April of 2022, MEMX did not charge fees for market data provided by the Exchange. The objective of this approach was to eliminate any fee-based barriers for Members when MEMX launched as a national securities exchange in 2020, which the Exchange believes has been helpful in its ability to attract order flow as a new exchange. The Exchange also did not initially charge for market data because MEMX believes that any exchange should first deliver meaningful value to Members and other market participants before charging fees for its products and services. As discussed more fully below, the Exchange recently calculated its annual aggregate costs for providing the Exchange Data Feeds at approximately $3 million. In order to establish fees that are designed to recover the aggregate costs of providing the Exchange Data Feeds plus a reasonable mark-up, the Exchange is proposing to modify its Fee Schedule, as described above. In addition to the Cost Analysis, described below, the Exchange believes that its proposed approach to market data fees is reasonable based on a comparison to competitors.

Additional Discussion—Comparison With Other Exchanges

The proposed fee structure is not novel but is instead comparable to the fee structure currently in place for the equities exchanges operated by Cboe Global Markets, Inc., in particular

[14] The Exchange notes that while it is not differentiating Professional and Non-Professional Users based on fees (in that it is proposing the same fee for such Users) for this data feed, and thus will not audit Firms based on this distinction, it will request reporting of each distinct category for informational purposes.

[15] *See* MEMX Rule 13.8(c).

[16] *See supra* note 14.

BZX.[17] As noted above, in January 2022, MEMX had 4.2% market share; for that same month, BZX had 5.5% market share.[18] The Exchange is proposing fees for its Exchange Data Feeds that are similar in structure to BZX and rates that are equal to, or in most cases lower, than the rates data recipients pay for comparable data feeds from BZX.[19] The Exchange notes that other competitors maintain fees applicable to market data that are considerably higher than those proposed by the Exchange, including NYSE Arca[20] and Nasdaq.[21] However, the Exchange has focused its comparison on BZX because it is the closest market in terms of market share and offers market data at prices lower than several other incumbent exchanges.[22]

The fees for the BZX Depth feed—which like the MEMOIR Depth feed, includes top of book, depth of book, trades, and security status messages—consist of an internal distributor access fee of $1,500 per month (the same as the Exchange's proposed rate), an external distributor access fee of $5,000 per month (two times the Exchange's proposed rate), a non-display usage fee for non-Trading Platforms of $2,000 per month ($500 less than the Exchange's proposed rate), a non-display usage fee for Trading Platforms of $5,000 per month ($2,500 more than the Exchange's proposed rate), a Professional User fee (per User) of $40 per month ($10 more than the Exchange's proposed rate), and a Non-Professional User fee (per User) of $5 per month ($2 more than the Exchange's proposed rate).[23]

The comparisons of the MEMOIR Last Sale feed and MEMOIR Top feed to the BZX Last Sale feed and BZX Top feed, respectively, are similar in that BZX generally maintains the same fee structure proposed by the Exchange and BZX charges fees that are comparable to, but in most cases higher than, the Exchange's proposed fees. Notably, the User fees proposed by the Exchange for External Distributors of MEMOIR Last Sale and MEMOIR Top ($0.01 for both Professional Users and Non-Professional Users) are considerably lower than those charged by BZX for BZX Top and BZX Last Sale ($4 for Professional Users and $0.10 for Non-Professional Users).

By charging the same low rate for all Users of MEMOIR Top and MEMOIR Last Sale the Exchange believes it is proposing a structure that is not only lower cost but that will also simplify reporting for subscribers who externally distribute these data feeds to Users, as the Exchange believes that categorization of Users as Professional and Non-Professional is not meaningful for these products and requiring such categorization would expose Firms to unnecessary audit risk of paying more for mis-categorization. However, the Exchange does not believe this is equally true for MEMOIR Depth, as most individual Users of MEMOIR Depth are likely to be Professional Users and the Exchange has proposed pricing for such Users that the Exchange believes is reasonable given the value to Professional Users (*i.e.,* since Professional Users use data to participate in the markets as part of their full-time profession and earn compensation based on their employment). While the Exchange would prefer the simplicity of a single fee, similar to that imposed for Professional Users and Non-Professional Users of the MEMOIR Top and MEMOIR Last Sale feeds, as that would reduce audit risk and simplify reporting, the proposed fee for Professional Users of the MEMOIR Depth feed if also applied to Non-Professional Users of such feed would be significantly higher than other exchanges charge. The Exchange reiterates that it does not anticipate many Non-Professional Users to subscribe to MEMOIR Depth. In fact, the Exchange is only aware of a single Non-Professional User (*i.e.,* one User) that is reported to receive MEMOIR Depth.

Additional Discussion—Cost Analysis

In general, the Exchange believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the Exchange Act requirements that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among members and markets. In particular, the Exchange believes that each exchange should take extra care to be able to demonstrate that these fees are based on its costs and reasonable business needs. Accordingly, in proposing to charge fees for market data, the Exchange has sought to be especially diligent in assessing those fees in a transparent way against its own aggregate costs of providing the related service, and also carefully and transparently assessing the

[17] *See* BZX Fee Schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/* (the ''BZX Fee Schedule'').

[18] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[19] The Exchange notes that although no fee proposed by the Exchange is higher than the fee charged for BZX for a comparable data product, under certain fact patterns a BZX data recipient could pay a lower rate than that charged by the Exchange. For instance, while the Exchange has proposed to adopt identical fees to those charged for internal distribution of MEMOIR Top as compared to BZX Top ($750 per month) and for internal distribution of MEMOIR Last Sale as compared to BZX Last Sale ($500 per month), BZX permits a data recipient who takes both feeds to pay only one fee and, upon request, to receive the other data feed free of charge. *See* BZX Fee Schedule, *supra* note 17. Because the Exchange has not proposed such a discount, a data recipient taking both MEMOIR TOP and MEMOIR Last Sale would pay more ($1,250 per month) than they would to take comparable data feeds from BZX ($750 per month).

[20] Fees for the NYSE Arca Integrated Feed, which is the comparable product to MEMOIR Depth, are $3,000 for access (internal use) and $3,750 for redistribution (external distribution), compared to the Exchange's proposed fees of $1,500 and $2,500, respectively. In addition, for its Integrated Feed, NYSE Arca charges for three different categories of non-display usage, each of which is $10,500 and each of which can be charged to the same firm more than one time (*e.g.,* a customer operating a Trading Platform would pay $10,500 compared to the Exchange's proposed fee of $2,500 but would also pay for each Trading Platform, up to three, if they operate more than one, instead of the single fee proposed by the Exchange; if that customer also uses the data for the other categories of non-display usage they would also pay $10,500 for each other category of usage, whereas the Exchange would only charge $2,500 for any non-display usage other than operating a Trading Platform). Finally, the NYSE Arca Integrated Feed user fee for pro devices is $60 compared to the proposed Professional User fee of $30 for MEMOIR Depth and the NYSE Arca Integrated user fee for non-pro devices is $20 compared to the proposed Non-Professional User fee of $3 for MEMOIR Depth. *See* NYSE Proprietary Market Data Pricing list, available at: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf.*

[21] Fees for the Nasdaq TotalView data feed, which is the comparable product to MEMOIR Depth, are $1,500 for access (internal use) and $3,750 for redistribution (external distribution), compared to the Exchange's proposed fees of $1,500 and $2,500, respectively. In addition, for TotalView, Nasdaq charges Trading Platforms $5,000 compared to the Exchange's proposal of $2,500, and, like NYSE Arca, charges customers per Trading Platform, up to three, if they operate more than one, instead of the single fee proposed by the Exchange. Nasdaq also requires users to report and pay usage fees for non-display access at levels of from $375 per subscriber for smaller firms with 39 or fewer subscribers to $75,000 per firm for a larger firm with over 250 subscribers. The Exchange does not require counting of devices or users for non-display purposes and instead has proposed flat fee of $2,500 for non-display usage not by Trading Platforms. Finally, the Nasdaq TotalView user fee for professional subscribers is $76 compared to the proposed Professional User fee of $30 for MEMOIR Depth and the Nasdaq TotalView user fee for non-professional subscribers is $15 compared to the proposed Non-Professional User fee of $3 for MEMOIR Depth. *See* Nasdaq Global Data Products pricing list, available at: *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN.*

[22] *See supra* notes 20–21.

[23] *See* BZX Fee Schedule, *supra* note 17. The Exchange notes that there are differences between the structure of BZX Depth fees and the proposed fees for MEMOIR Depth, including that the Exchange has proposed a Digital Media Enterprise License for MEMOIR Depth but a comparable license is not available from BZX. Additionally, BZX maintains a general enterprise license for User fees, similar to that proposed by the Exchange for MEMOIR Top and MEMOIR Last Sale, but the Exchange has not proposed adding a general Enterprise license at this time.

impact on Members—both generally and in relation to other Members, *i.e.,* to assure the fee will not create a financial burden on any participant and will not have an undue impact in particular on smaller Members and competition among Members in general. The Exchange does not believe it needs to otherwise address questions about market competition in the context of this filing because the proposed fees are so clearly consistent with the Act based on its Cost Analysis. The Exchange also believes that this level of diligence and transparency is called for by the requirements of Section 19(b)(1) under the Act,[24] and Rule 19b–4 thereunder,[25] with respect to the types of information self-regulatory organizations (''SROs'') should provide when filing fee changes, and Section 6(b) of the Act,[26] which requires, among other things, that exchange fees be reasonable and equitably allocated,[27] not designed to permit unfair discrimination,[28] and that they not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[29] This rule change proposal addresses those requirements, and the analysis and data in this section are designed to clearly and comprehensively show how they are met.[30]

As noted above, MEMX has conducted and recently updated a study of its aggregate costs to produce the Exchange Data Feeds—the Cost Analysis. The Cost Analysis required a detailed analysis of MEMX's aggregate baseline costs, including a determination and allocation of costs for core services provided by the Exchange—transactions, market data, membership services, physical connectivity, and application sessions (which provide order entry, cancellation and modification functionality, risk functionality, ability to receive drop copies, and other functionality). MEMX separately divided its costs between those costs necessary to deliver each of these core services, including infrastructure, software, human resources (*i.e.,* personnel), and certain general and administrative expenses (''cost drivers''). Next, MEMX adopted an allocation methodology with various principles to guide how much of a particular cost should be allocated to each core service. For instance, fixed costs that are not driven by client activity (*e.g.,* message rates), such as data center costs, were allocated more heavily to the provision of physical connectivity (75%), with smaller allocations to logical ports (2.6%), and the remainder to the provision of transaction execution and market data services (22.4%). The allocation methodology was decided through conversations with senior management familiar with each area of the Exchange's operations. After adopting this allocation methodology, the Exchange then applied an estimated allocation of each cost driver to each core service, resulting in the cost allocations described below.

By allocating segmented costs to each core service, MEMX was able to estimate by core service the potential margin it might earn based on different fee models. The Exchange notes that as a non-listing venue it has four primary sources of revenue that it can potentially use to fund its operations: transaction fees, fees for connectivity services, membership and regulatory fees, and market data fees. Accordingly, the Exchange generally must cover its expenses from these four primary sources of revenue.

Through the Exchange's extensive Cost Analysis, which was again recently updated to focus solely on the provision of the Exchange Data Feeds, the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the provision of the Exchange Data Feeds, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the provision of the Exchange Data Feeds, and thus bears a relationship that is, ''in nature and closeness,'' directly related to the Exchange Data Feeds. Based on its analysis, MEMX calculated its aggregate annual costs for providing the Exchange Data Feeds, at $3,014,348. This results in an estimated monthly cost for providing Exchange Data Feeds of $251,196. In order to cover operating costs and earn a reasonable profit on its market data, the Exchange has determined it necessary to charge fees for its proprietary data products, and, as such, the Exchange is proposing to modify its Fee Schedule, pursuant to MEMX Rules 15.1(a) and (c), as set forth above.

Costs Related to Offering Exchange Data Feeds

The following chart details the individual line-item (annual) costs considered by MEMX to be related to offering the Exchange Data Feeds to its Members and other customers as well as the percentage of the Exchange's overall costs that such costs represent for such area (*e.g.,* as set forth below, the Exchange allocated approximately 6.9% of its overall Human Resources cost to offering Exchange Data Feeds).

Costs drivers	Costs	Percent of all
Human Resources	$1,729,856	6.9
Network Infrastructure (*e.g.,* servers, switches)	232,452	8.8
Data Center	318,456	9.8
Hardware and Software Licenses	246,864	9.8
Depreciation	399,911	18.0
Allocated Shared Expenses	86,809	1.8
Total	3,014,348	6.5

Human Resources

For personnel costs (Human Resources), MEMX calculated an allocation of employee time for employees whose functions include directly providing services necessary to offer the Exchange Data Feeds, including performance thereof, as well as personnel with ancillary functions

[24] 15 U.S.C. 78s(b)(1).

[25] 17 CFR 240.19b–4.

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(4).

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78f(b)(8).

[30] In 2019, Commission staff published guidance suggesting the types of information that SROs may use to demonstrate that their fee filings comply with the standards of the Exchange Act (''Fee Guidance''). While MEMX understands that the Fee Guidance does not create new legal obligations on SROs, the Fee Guidance is consistent with MEMX's view about the type and level of transparency that exchanges should meet to demonstrate compliance with their existing obligations when they seek to charge new fees. *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019) available at *https://www.sec.gov/tm/staff-guidancesro-rule-filings-fees.*

related to establishing and providing such services (such as information security and finance personnel). The Exchange notes that it has fewer than eighty (80) employees and each department leader has direct knowledge of the time spent by each employee with respect to the various tasks necessary to operate the Exchange. The estimates of Human Resources cost were therefore determined by consulting with such department leaders, determining which employees are involved in tasks related to providing the Exchange Data Feeds, and confirming that the proposed allocations were reasonable based on an understanding of the percentage of their time such employees devote to tasks related to providing the Exchange Data Feeds. The Exchange notes that senior level executives were allocated Human Resources costs to the extent the Exchange believed they are involved in overseeing tasks related to providing the Exchange Data Feeds. The Exchange's cost allocation for employees who perform work in support of generating and disseminating the Exchange Data Feeds arrive at a full time equivalent (''FTE'') of 5.2 FTEs. The Human Resources cost was calculated using a blended rate of compensation reflecting salary, equity and bonus compensation, benefits, payroll taxes, and 401(k) matching contributions.

Network Infrastructure

The Network Infrastructure cost includes cabling and switches required to generate and disseminate the Exchange Data Feeds. The Network Infrastructure cost was narrowly estimated by focusing on the servers used at the Exchange's primary and back-up data centers specifically for the Exchange Data Feeds. Further, as certain servers are only partially utilized to generate and disseminate the Exchange Data Feeds, only the percentage of such servers devoted to generating and disseminating the Exchange Data Feeds was included (*i.e.,* the capacity of such servers allocated to the Exchange Data Feeds). From this analysis, the Exchange determined that 9.8% of its servers are used to generate and disseminate the Exchange Data Feeds. When combined with the applicable switches used for Exchange Data Feeds, the Exchange has determined that approximately 8.8% of its overall Network Infrastructure costs are attributable to the Exchange Data Feeds.

Data Center

Data Center costs includes an allocation of the costs the Exchange incurs to provide the Exchange Data Feeds in the third-party data centers where the Exchange maintains its equipment as well as related costs (the Exchange does not own the Primary Data Center or the Secondary Data Center, but instead, leases space in data centers operated by third parties). As the Data Center costs are primarily for space, power, and cooling of servers, the Exchange applied the same percentage calculated above with respect to servers, *i.e.* 9.8%, to allocate the applicable Data Center costs for the Exchange Data Feeds. The Exchange believes it is reasonable to apply the same proportionate percentage of Data Center costs to that of Network Infrastructure.

Hardware and Software Licenses

Hardware and Software Licenses includes hardware and software licenses used to operate and monitor physical assets necessary to offer the Exchange Data Feeds. Because the hardware and software license fees are correlated to the servers used by the Exchange, the Exchange again applied an allocation of 9.8% of its costs for Hardware and Software Licenses to the Exchange Data Feeds.

Depreciation

The vast majority of the software the Exchange uses with respect to its operations, including the software used to generate and disseminate the Exchange Data Feeds has been developed in-house and the cost of such development is depreciated over time. Accordingly, the Exchange included Depreciation cost related to depreciated software used to generate and disseminate the Exchange Data Feeds. The Exchange also included in the Depreciation costs certain budgeted improvements that the Exchange intends to capitalize and depreciate with respect to the Exchange Data Feeds in the near-term. As with the other allocated costs in the Exchange's updated Cost Analysis, the Depreciation cost was therefore narrowly tailored to depreciation related to the Exchange Data Feeds.

Allocated Shared Expenses

Finally, certain general shared expenses were allocated to the Exchange Data Feeds. However, contrary to its prior cost analysis, rather than taking the whole amount of general shared expenses and applying an allocated percentage, the Exchange has narrowly selected specific general shared expenses relevant to the Exchange Data Feeds. The costs included in general shared expenses allocated to the Exchange Data Feeds include office space and office expenses (*e.g.,* occupancy and overhead expenses), utilities, recruiting and training, marketing and advertising costs, professional fees for legal, tax and accounting services (including external and internal audit expenses), and telecommunications costs. The cost of paying individuals to serve on the Exchange's Board of Directors or any committee was not allocated to providing Exchange Data Feeds.

Cost Analysis—Additional Discussion

In conducting its Cost Analysis, the Exchange did not allocate any of its expenses in full to any core service and did not double-count any expenses. Instead, as described above, the Exchange identified and allocated applicable cost drivers across its core services and used the same approach to analyzing costs to form the basis of a separate proposal to adopt fees for connectivity services (the ''Connectivity Filing'') [31] and this filing proposing fees for Exchange Data Feeds. Thus, the Exchange's allocations of cost across core services were based on real costs of operating the Exchange and were not double-counted across the core services or their associated revenue streams.

The Exchange anticipates that the proposed fees for Exchange Data Feeds will generate approximately $262,500 monthly ($3,150,000 annually) based on billing and reporting that has taken place since the Exchange commenced billing for such data feeds. The proposed fees for Exchange Data Feeds are designed to permit the Exchange to cover the costs allocated to providing Exchange Data Feeds with a mark-up that the Exchange believes is modest (approximately 4%), which the Exchange believes is fair and reasonable after taking into account the costs related to creating, generating, and disseminating the Exchange Data Feeds and the fact that the Exchange will need to fund future expenditures (increased costs, improvements, etc.). The Exchange also reiterates that prior to April of 2022 the Exchange has not previously charged any fees for Exchange Data Feeds and its allocation of costs to Exchange Data Feeds was part of a holistic allocation that also allocated costs to other core services without double-counting any expenses.

The Exchange like other exchanges is, after all, a for-profit business. Accordingly, while the Exchange believes in transparency around costs and potential margins, as well as periodic review of revenues and applicable costs (as discussed below),

[31] *See* SR–MEMX–2022–26, filed September 15, 2022, available at: *https://info.memxtrading.com/rules-and-filings/.*

the Exchange does not believe that these estimates should form the sole basis of whether or not a proposed fee is reasonable or can be adopted. Instead, the Exchange believes that the information should be used solely to confirm that an Exchange is not earning supra-competitive profits, and the Exchange believes its Cost Analysis and related projections demonstrate this fact.

As a general matter, the Exchange believes that its costs will remain relatively similar in future years. It is possible however that such costs will either decrease or increase. To the extent the Exchange sees growth in use of Exchange Data Feeds it will receive additional revenue to offset future cost increases. However, if use of Exchange Data Feeds is static or decreases, the Exchange might not realize the revenue that it anticipates or needs in order to cover applicable costs. Accordingly, the Exchange is committing to conduct a one-year review after implementation of these fees. The Exchange expects that it may propose to adjust fees at that time, to increase fees in the event that revenues fail to cover costs and a reasonable mark-up of such costs.[32] Similarly, the Exchange expects that it would propose to decrease fees in the event that revenue materially exceeds current projections. In addition, the Exchange will periodically conduct a review to inform its decision making on whether a fee change is appropriate (*e.g.,* to monitor for costs increasing/decreasing or subscribers increasing/decreasing, etc. in ways that suggest the then-current fees are becoming dislocated from the prior cost-based analysis) and expects that it would propose to increase fees in the event that revenues fail to cover its costs and a reasonable mark-up, or decrease fees in the event that revenue or the mark-up materially exceeds current projections. In the event that the Exchange determines to propose a fee change, the results of a timely review, including an updated cost estimate, will be included in the rule filing proposing the fee change. More generally, the Exchange believes that it is appropriate for an exchange to refresh and update information about its relevant costs and revenues in seeking any future changes to fees, and the Exchange commits to do so.

[32] The Exchange notes that it does not believe that a 4% mark-up is necessarily competitive, and instead that this is likely significantly below the mark-up many businesses place on their products and services.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [33] of the Act in general, and furthers the objectives of Section 6(b)(4) [34] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes that the proposed fees are consistent with the objectives of Section 6(b)(5) [35] of the Act in that they are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to a free and open market and national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange notes prior to addressing the specific reasons the Exchange believes the proposed fees and fee structure are reasonable, equitably allocated and not unreasonably discriminatory, that the proposed definitions and fee structure described above are consistent with the definitions and fee structure used by most U.S. securities exchanges, and Cboe BZX in particular. As such, the Exchange believes it is adopting a model that is easily understood by Members and non-Members, most of which also subscribe to market data products from other exchanges. For this reason, the Exchange believes that the proposed definitions and fee structure described above are consistent with the Act generally, and Section 6(b)(5) [36] of the Act in particular.

As noted above, the Exchange's executed trading volume has grown from 0% market share to approximately 3–4% market share in two years and the Exchange believes that it is reasonable to begin charging fees for the Exchange Data Feeds. One of the primary objectives of MEMX is to provide competition and to reduce fixed costs imposed upon the industry. Consistent with this objective, the Exchange believes that this proposal reflects a simple, competitive, reasonable, and equitable pricing structure, with fees that are discounted when compared to comparable data products and services offered by competitors.[37]

[33] 15 U.S.C. 78f.

[34] 15 U.S.C. 78f(b)(4).

[35] 15 U.S.C. 78f(b)(5).

[36] 15 U.S.C. 78f(b)(5).

Reasonableness

Overall. With regard to reasonableness, the Exchange understands that the Commission has traditionally taken a market-based approach to examine whether the SRO making the fee proposal was subject to significant competitive forces in setting the terms of the proposal. The Exchange understands that in general the analysis considers whether the SRO has demonstrated in its filing that (i) there are reasonable substitutes for the product or service; (ii) ''platform'' competition constrains the ability to set the fee; and/or (iii) revenue and cost analysis shows the fee would not result in the SRO taking supracompetitive profits. If the SRO demonstrates that the fee is subject to significant competitive forces, the Exchange understands that in general the analysis will next consider whether there is any substantial countervailing basis to suggest the fee's terms fail to meet one or more standards under the Exchange Act. The Exchange further understands that if the filing fails to demonstrate that the fee is constrained by competitive forces, the SRO must provide a substantial basis, other than competition, to show that it is consistent with the Exchange Act, which may include production of relevant revenue and cost data pertaining to the product or service.

The Exchange has not determined its proposed overall market data fees based on assumptions about market competition, instead relying upon a cost-plus model to determine a reasonable fee structure that is informed by the Exchange's understanding of different uses of the products by different types of participants. In this context, the Exchange believes the proposed fees overall are fair and reasonable as a form of cost recovery plus the possibility of a reasonable return for Exchange's aggregate costs of offering the Exchange Data Feeds. The Exchange believes the proposed fees are reasonable because they are designed to generate annual revenue to recoup some or all of Exchange's annual costs of providing market data with a reasonable mark-up. As discussed in the Purpose section, the Exchange estimates this fee filing will result in annual revenue of approximately $3.15 million, representing a potential mark-up of just 4% over the cost of providing market data. Accordingly, the Exchange believes that this fee methodology is

[37] *See supra* notes 20–21; *see supra* note 23 and accompanying text.

reasonable because it allows the Exchange to recoup some or all of its expenses for providing market data products (with any additional revenue representing no more than what the Exchange believes to be a reasonable rate of return). The Exchange also believes that the proposed fees are reasonable because they are generally less than the fees charged by competing equities exchanges for comparable market data products, notwithstanding that the competing exchanges may have different system architectures that may result in different cost structures for the provision of market data.

The Exchange believes the proposed fees for the Exchange Data Feeds are reasonable when compared to fees for comparable products, such as the BZX Depth feed, BZX Top feed, and BZX Last Sale feed, compared to which the Exchange's proposed fees are generally lower, as well as other comparable data feeds priced significantly higher than the Exchange's proposed fees for the Exchange Data Feeds.[38] Specifically with respect to the MEMOIR Depth feed, the Exchange believes that the proposed fees for such feed are reasonable because they represent not only the value of the data available from the MEMOIR Top and MEMOIR Last Sale data feeds, which have lower proposed fees, but also the value of receiving the depth-of-book data on an order-by-order basis. The Exchange believes it is reasonable to have pricing based, in part, upon the amount of information contained in each data feed and the value of that information to market participants. The MEMOIR Top and Last Sale data feeds, as described above, can be utilized to trade on the Exchange but contain less information than that is available on the MEMOIR Depth feed (*i.e.,* even for a subscriber who takes both feeds, such feeds do not contain depth-of-book information). Thus, the Exchange believes it reasonable for the products to be priced as proposed, with MEMOIR Last Sale having the lowest price, MEMOIR Top the next lowest price, and MEMOIR Depth the highest price (and more than MEMOIR Last Sale and MEMOIR Top combined).

Internal Distribution Fees. The Exchange believes that it is reasonable to charge Fees to access the Exchange Data Feeds for Internal Distribution because of the value of such data to subscribers in their profit-generating activities. The Exchange also believes that the proposed monthly Internal Distribution fees for MEMOIR Depth, MEMOIR Top, and MEMOIR Last Sale are reasonable as they are the same amounts charged by at least one other exchange of comparable size for comparable data products,[39] and are lower than the fees charged by several other exchanges for comparable data products.[40]

External Distribution Fees. The Exchange believes that it is reasonable to charge External Distribution fees for the Exchange Data Feeds because vendors receive value from redistributing the data in their business products provided to their customers. The Exchange believes that charging External Distribution fees is reasonable because the vendors that would be charged such fees profit by re-transmitting the Exchange's market data to their customers. These fees would be charged only once per month to each vendor account that redistributes any Exchange Data Feed, regardless of the number of customers to which that vendor redistributes the data. The Exchange also believes the proposed monthly External Distribution fee for the MEMOIR Depth Feed is reasonable because it is half the amount of the fee charged by at least one other exchange of comparable size for a comparable data product,[41] and significantly less than the amount charged by several other exchanges for comparable data products.[42] Similarly, the Exchange believes the proposed monthly External Distribution fees for the MEMOIR TOP and MEMOIR Last Sale feeds are reasonable because they are discounted compared to same amounts charged by at least one other exchange of comparable size for comparable data products,[43] and significantly less than the amount charged by several other exchanges for comparable data products.[44]

User Fees. The Exchange believes that having separate Professional and Non-Professional User fees for the MEMOIR Depth feed is reasonable because it will make the product more affordable and result in greater availability to Professional and Non-Professional Users. Setting a modest Non-Professional User fee is reasonable because it provides an additional method for Non-Professional Users to access the Exchange Data Feeds by providing the same data that is available to Professional Users. The proposed monthly Professional User fee and monthly Non-Professional User fee are reasonable because they are lower than the fees charged by at least one other exchange of comparable size for comparable data products,[45] and significantly less than the amounts charged by several other exchanges for comparable data products.[46]

The Exchange also believes it is reasonable to charge the same low per User fee of $0.01 for both Professional Users and Non-Professional Users receiving the MEMOIR Top and MEMOIR Last Sale feeds, as this is not only pricing such data at a much lower cost than other exchanges charge for comparable data feeds [47] but doing so will also simplify reporting for subscribers who externally distribute these data feeds to Users, as the Exchange believes that categorization of Users as Professional and Non-Professional is not meaningful for these products and that requiring such categorization would expose Firms to unnecessary audit risk of paying more for mis-categorization. The Exchange also believes that the proposal to require reporting of individual Users, but not devices, is reasonable as this too will eliminate unnecessary audit risk that can arise when recipients are required to apply complex counting rules such as whether or not to count devices or whether an individual accessing the same data through multiple devices should be counted once or multiple times. In addition, the Exchange believes it is reasonable to charge User fees only for External Distribution of the MEMOIR Top and MEMOIR Last Sale feeds, and not charge User fees for Internal Distribution of such market data feeds, because vendors receive additional value from being able to redistribute such data to their customers and can recoup associated expenses by passing on such fees either directly to those customers or indirectly by using the data to facilitate other revenue-generating activity.

The Exchange further believes that its proposal to adopt a Digital Media Enterprise Fee for each of the Exchange Data Feeds is reasonable because it would allow a market participant that wishes to disseminate information from the Exchange Data Feeds through a digital media platform such as a public

[38] *See supra* notes 20–21; *see supra* note 23 and accompanying text.

[39] *See* BZX Fee Schedule, *supra* note 17.

[40] *See, e.g.,* NYSE Proprietary Market Data Pricing list, available at: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf* (''NYSE Fee Schedule''); Nasdaq Global Data Products pricing list, available at: *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN* (''Nasdaq Fee Schedule'').

[41] *See* BZX Fee Schedule, *supra* note 17.

[42] *See, e.g.,* NYSE Fee Schedule, *supra* note 40; Nasdaq Fee Schedule, *supra* note 40.

[43] *See* BZX Fee Schedule, *supra* note 17.

[44] *See, e.g.,* NYSE Fee Schedule, *supra* note 40; Nasdaq Fee Schedule, *supra* note 40.

[45] *See* BZX Fee Schedule, *supra* note 17.

[46] *See, e.g.,* NYSE Fee Schedule, *supra* note 40; Nasdaq Fee Schedule, *supra* note 40.

[47] *See id.*

website without determining the number of Users, which would be practically impossible. The Exchange further believes it is reasonable for the Digital Media Enterprise Fee to be higher for MEMOIR Depth than MEMOIR Top or MEMOIR Last Sale because of the additional information that is contained in MEMOIR Depth, and in turn, the potential additional value to data recipients.

The Exchange also believes it is reasonable to adopt an Enterprise Fee for MEMOIR Top and MEMOIR Last Sale because this would allow a market participant to disseminate such data feeds to an unlimited number of Users without the necessity of counting such Users. As this is an optional subscription, a data recipient is able to determine whether it prefers to count Users and report such Users to the Exchange or not, and also whether it is more economically advantageous to count and pay for specific Users or to subscribe to the Enterprise Fee. The Exchange also notes that given the low cost proposed per User, only a market participant with a substantial number of Users would likely choose to subscribe for and pay the Enterprise Fee. The Exchange also believes it is reasonable not to adopt an Enterprise Fee for MEMOIR Depth at this time as the Exchange does not believe there is sufficient demand for an Enterprise Fee given relatively low User counts for subscribers of MEMOIR Depth. While MEMOIR Top and MEMOIR Last Sale also currently have relatively low User counts, the Exchange does believe that there is potential demand for a market data recipient that wishes to disseminate top of book and last sale information to a large subscriber base, and thus again believes it is reasonable to offer an Enterprise Fee option for such a market data recipient.

Non-Display Use Fees. The Exchange believes the proposed Non-Display Usage fees for the MEMOIR Depth feed are reasonable, because they reflect the value of the data to the data recipients in their profit-generating activities and do not impose the burden of counting non-display devices.

The Exchange believes that the proposed Non-Display Usage fees for the MEMOIR Depth feed reflect the significant value of the non-display data use to data recipients, most of whom purchase such data on a voluntary basis. Non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing, as well as by data recipients that operate Trading Platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. Although some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce a recipient's costs by automating such functions so that they can be carried out in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting recipients. The Exchange believes that charging for non-trading uses is reasonable because data recipients can derive substantial value from such uses, for example, by automating tasks so that can be performed more quickly and accurately and less expensively than if they were performed manually.

Previously, the non-display use data pricing policies of many exchanges required customers to count, and the exchanges to audit the count of, the number of non-display devices used by a customer. As non-display use grew more prevalent and varied, however, exchanges received an increasing number of complaints about the impracticality and administrative burden associated with that approach. In response, several exchanges developed a non-display use pricing structure that does not require non-display devices to be counted or those counts to be audited, and instead categorizes different types of use. The Exchange proposes to distinguish between non-display use for the operation of a Trading Platform and other non-display use, which is similar to exchanges such as BZX and EDGX,[48] while other exchanges maintain additional categories and in many cases charge multiple times for different types of non-display use or the operation of multiple Trading Platforms.[49]

The Exchange believes that it is reasonable to segment the fee for non-display use into these two categories. As noted above, the uses to which customers can put the MEMOIR Depth feed are numerous and varied, and the Exchange believes that charging separate fees for these separate categories of use is reasonable because it reflects the actual value the customer derives from the data, based upon how the customer makes use of the data.

The Exchange believes that the proposed fees for non-display use other than operation of a Trading Platform are reasonable. These fees are comparable to the fees charged by at least one other exchange of comparable size for a comparable data product,[50] and significantly less than the amounts charged by several other exchanges for comparable data products.[51] The Exchange believes that the proposed fees directly and appropriately reflect the significant value of using data on a non-display basis in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments. Further, the Exchange benefits from other non-display use by market participants (including the fact that the Exchange receives orders resulting from algorithms and routers) and both the Exchange and other participants benefit from other non-display use by market participants when such use is to support more broadly beneficial functions such as risk management and compliance. The Exchange notes that with this filing it is proposing the same flat fee (*i.e.,* $2,500) for both Non-Display Usage of the MEMOIR Depth by Trading Platforms and Non-Display Usage of the MEMOIR Depth feed not by Trading Platforms.

The Exchange also believes that it is reasonable to charge the proposed fees for non-display use for operation of a Trading Platform because the proposed fees are comparable to, and lower than, the fees charged at least one other exchange of comparable size for a comparable data product,[52] and significantly less than the amounts charged by several other exchanges for comparable data products, which also charge per Trading Platform operated by a data subscriber subject to a cap in most cases, rather than charging per Firm, as proposed by the Exchange.[53] With respect to alternative trading systems, or ATSs, such platforms can utilize the Exchange Data Feeds to form prices for trading on such platforms but are not required to do so and can instead utilize SIP data. Approximately two-thirds of the ATSs approved to trade NMS stocks do not currently subscribe to the Exchange Data Feeds.[54] With respect to other exchanges, which may choose to use the Exchange Data Feeds for Regulation NMS compliance and order routing, the Exchange notes

[48] *See* BZX Fee Schedule, *supra* note 17; EDGX Fee Schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/.*

[49] *See supra* notes 20–21.

[50] *See* BZX Fee Schedule, *supra* note 17.

[51] *See, e.g.,* NYSE Fee Schedule, *supra* note 40; Nasdaq Fee Schedule, *supra* note 40.

[52] *See* BZX Fee Schedule, *supra* note 17.

[53] *See supra* notes 20–21.

[54] MEMX internal data regarding non-display use by Trading Platforms; as of December 31, 2022, there were 33 ATSs that had filed an effective Form ATS–N with the Commission to trade NMS stocks.

that several exchange competitors of the Exchange have not subscribed to any Exchange Data Feeds and instead utilize SIP data for such purposes.[55] Accordingly, both ATSs and other exchanges clearly have a choice whether to subscribe to the Exchange Data Feeds.

The proposed Non-Display Usage fees for the MEMOIR Depth feed are also reasonable because they take into account the extra value of receiving the data for Non-Display Usage that includes a rich set of information including top of book quotations, depth-of-book quotations, executions and other information. The Exchange believes that the proposed fees directly and appropriately reflect the significant value of using the MEMOIR Depth feed on a non-display basis in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments.[56] For the same reasons, the Exchange believes it is reasonable to provide other data feeds, namely MEMOIR Top and MEMOIR Last Sale, free of charge for Non-Display Usage. The Exchange does not believe that either MEMOIR Top or MEMOIR Last Sale has the same value to market participants with respect to non-display usage as MEMOIR Depth, as neither of MEMOIR Top or MEMOIR Last Sale contains the amount of information that the Exchange expects market participants need for typical trading and non-trading non-display applications.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the Exchange Data Feeds are reasonable.

Equitable Allocation

Overall. The Exchange believes that its proposed fees are reasonable, fair, and equitable, and not unfairly discriminatory because they are designed to align fees with services provided. The Exchange believes the proposed fees for the Exchange Data Feeds are allocated fairly and equitably among the various categories of users of the feeds, and any differences among categories of users are justified and appropriate.

The Exchange believes that the proposed fees are equitably allocated because they will apply uniformly to all data recipients that choose to subscribe to the Exchange Data Feeds. Any subscriber or vendor that chooses to subscribe to one or more Exchange Data Feeds is subject to the same Fee Schedule, regardless of what type of business they operate, and the decision to subscribe to one or more Exchange Data Feeds is based on objective differences in usage of Exchange Data Feeds among different Firms, which are still ultimately in the control of any particular Firm. The Exchange believes the proposed pricing between Exchange Data Feeds is equitably allocated because it is based, in part, upon the amount of information contained in each data feed and the value of that information to market participants. The MEMOIR Top and Last Sale data feeds, as described above, can be utilized to trade on the Exchange but contain less information than that is available on the MEMOIR Depth feed (*i.e.,* even for a subscriber who takes both feeds, such feeds do not contain depth-of-book information). Thus, the Exchange believes it is an equitable allocation of fees for the products to be priced as proposed, with MEMOIR Last Sale having the lowest price, MEMOIR Top the next lowest price, and MEMOIR Depth the highest price (and more than MEMOIR Last Sale and MEMOIR Top combined).

Internal Distribution Fee. The Exchange believes the proposed monthly fees for Internal Distribution of the Exchange Data Feeds are equitably allocated because they would be charged on an equal basis to all data recipients that receive the Exchange Data Feeds for internal distribution, regardless of what type of business they operate.

External Distribution Fees. The Exchange believes the proposed monthly fees for External Distribution of the Exchange Data Feeds are equitably allocated because they would be charged on an equal basis to all data recipients that receive the Exchange Data Feeds that choose to redistribute the feeds externally. The Exchange also believes that the proposed monthly fees for External Distribution are equitably allocated when compared to lower proposed fees for Internal Distribution because data recipients that are externally distributing Exchange Data Feeds are able to monetize such distribution and spread such costs amongst multiple third party data recipients, whereas the Internal Distribution fee is applicable to use by a single data recipient (and its affiliates).

User Fees. The Exchange believes that the fee structure differentiating Professional User fees from Non-Professional User fees for display use of the MEMOIR Depth feed is equitable. This structure has long been used by other exchanges and the SIPs to reduce the price of data to Non-Professional Users and make it more broadly available.[57] Offering the MEMOIR Depth feed to Non-Professional Users at a lower cost than Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. While Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange also believes it may be unreasonable to charge a Non-Professional User the same fee that it has proposed for Professional Users, as this fee would be higher than any other U.S. equities exchange charges to Non-Professional Users for receipt of a comparable data product. These User fees would be charged uniformly to all individuals that have access to the MEMOIR Depth feed based on the category of User.

The Exchange also believes the proposed User fees for MEMOIR Top and MEMOIR Last Sale are equitable because the Exchange has proposed to charge Professional Users and Non-Professional Users the same low rate of $0.01 per month. In addition, the Exchange believes it is equitable to charge User fees only for External Distribution of the MEMOIR Top and MEMOIR Last Sale feeds, and not charge User fees for Internal Distribution of such market data feeds, because vendors receive additional value from being able to redistribute such data to their customers and can recoup associated expenses by passing on such fees either directly to those customers or indirectly

[55] *See, e.g.,* NYSE Arca Rule 7.37–E.(d), Order Execution and Routing, and BZX Rule 11.26, each of which discloses the data feeds used by each respective exchange and state that SIP products are used with respect to MEMX.

[56] *See also* Exchange Act Release No. 69157, March 18, 2013, 78 FR 17946, 17949 (March 25, 2013) (SR–CTA/CQ–2013–01) (''[D]ata feeds have become more valuable, as recipients now use them to perform a far larger array of non-display functions. Some firms even base their business models on the incorporation of data feeds into black boxes and application programming interfaces that apply trading algorithms to the data, but that do not require widespread data access by the firm's employees. As a result, these firms pay little for data usage beyond access fees, yet their data access and usage is critical to their businesses.''

[57] *See, e.g.,* Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR–NYSE–2008–131) (establishing the $15 Non-Professional User Fee (Per User) for NYSE OpenBook); Securities Exchange Act Release No. 20002, File No. S7–433 (July 22, 1983), 48 FR 34552 (July 29, 1983) (establishing Non-Professional fees for CTA data); NASDAQ BX Equity 7 Pricing Schedule, Section 123.

by using the data to facilitate other revenue-generating activity.

Finally, the Exchange believes it is equitable to adopt User fees for the Memoir Depth feed that are significantly higher than the User fees for the MEMOIR Top and MEMOIR Last Sale feeds because, as described above, MEMOIR Depth contains significantly more data than such data feeds. The Exchange believes it is equitable to have pricing based, in part, upon the amount of information contained in each data feed and the value of that information to market participants.

The Exchange further believes that its proposal to adopt a Digital Media Enterprise Fee for each of the Exchange Data Feeds is equitable because it would allow a market participant that wishes to disseminate information from the Exchange Data Feeds through a digital media platform such as a public website without determining the number of Users, which would be practically impossible. The Exchange further believes it is equitable for the Digital Media Enterprise Fee to be higher for MEMOIR Depth than MEMOIR Top or MEMOIR Last Sale because of the additional information that is contained in MEMOIR Depth, and in turn, the potential additional value to data recipients.

The Exchange also believes it is equitable to adopt an Enterprise Fee for MEMOIR Top and MEMOIR Last Sale because this would allow a market participant to disseminate such data feeds to an unlimited number of Users without the necessity of counting such Users. As this is an optional subscription, a data recipient is able to determine whether it prefers to count Users and report such Users to the Exchange or not, and also whether it is more economically advantageous to count and pay for specific Users or to subscribe to the Enterprise Fee. The Exchange also believes it is equitable not to adopt an Enterprise Fee for MEMOIR Depth at this time as the Exchange does not believe there is sufficient demand for an Enterprise Fee given relatively low User counts for subscribers of MEMOIR Depth, as described above.

Non-Display Use Fees. The Exchange believes the proposed Non-Display Usage fees are equitably allocated because they would require subscribers to pay fees only for the uses they actually make of the data. As noted above, non-display data can be used by data recipients for a wide variety of profit-generating purposes (including trading and order routing) as well as purposes that do not directly generate revenues (such as risk management and compliance) but nonetheless substantially reduce the recipient's costs by automating certain functions. The Exchange believes that it is equitable to charge non-display data subscribers that use MEMOIR Depth data for purposes other than operation of a Trading Platform as proposed because all such subscribers would have the ability to use such data for as many non-display uses as they wish for one low fee. As noted above, this structure is comparable to that in place for the BZX Depth feed but several other exchanges charge multiple non-display fees to the same client to the extent they use a data feed in several different trading platforms or for several types of non-display use.[58]

The Exchange further believes that the fees for non-display use for operation of a Trading Platform and for non-display use other than operation of a Trading Platform are equitable because the Exchange is imposing the same flat fee for each category of non-display use.

The Exchange believes that it is equitable to charge a single fee per Firm rather than multiple fees for a Firm that operates more than one Trading Platform because operators of Trading Platforms are many times viewed as a single competing venue or group, even if there are multiple liquidity pools operated by the same competitor.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the Exchange Data Feeds are equitably allocated.

The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees for the Exchange Data Feeds are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

Overall. The Exchange believes that the proposed fees are not unfairly discriminatory because they would apply to all data recipients that choose to subscribe to the same Exchange Data Feed(s). Any vendor or subscriber that chooses to subscribe to the Exchange Data Feeds is subject to the same Fee Schedule, regardless of what type of business they operate. Because the proposed fees for MEMOIR Depth are higher, vendors and subscribers seeking lower cost options may instead choose to receive data from the SIPs or through the MEMOIR Top and/or MEMOIR Last Sale feed for a lower cost. Alternatively, vendors and subscribers can choose to pay for the MEMOIR Depth feed in order to receive data in a single feed with depth-of-book information if such information is valuable to such vendors or subscribers. The Exchange notes that vendors or subscribers can also choose to subscribe to a combination of data feeds for redundancy purposes or to use different feeds for different purposes. In sum, each vendor or subscriber has the ability to choose the best business solution for itself. The Exchange does not believe it is unfairly discriminatory to base pricing upon the amount of information contained in each data feed and the value of that information to market participants. As described above, the MEMOIR Top and Last Sale data feeds, can be utilized to trade on the Exchange but contain less information than that is available on the MEMOIR Depth feed (*i.e.,* even for a subscriber who takes both feeds, such feeds do not contain depth-of-book information). Thus, the Exchange believes it is not unfairly discriminatory for the products to be priced as proposed, with MEMOIR Last Sale having the lowest price, MEMOIR Top the next lowest price, and MEMOIR Depth the highest price (and more than MEMOIR Last Sale and MEMOIR Top combined).

Internal Distribution Fees. The Exchange believes the proposed monthly fees for Internal Distribution of the Exchange Data Feeds are not unfairly discriminatory because they would be charged on an equal basis to all data recipients that receive the same Exchange Data Feed(s) for internal distribution, regardless of what type of business they operate.

External Distribution Fees. The Exchange believes the proposed monthly fees for redistributing the Exchange Data Feeds are not unfairly discriminatory because they would be charged on an equal basis to all data recipients that receive the same Exchange Data Feed(s) that choose to redistribute the feed(s) externally. The Exchange also believes that having higher monthly fees for External Distribution than Internal Distribution is not unfairly discriminatory because data recipients that are externally distributing Exchange Data Feeds are able to monetize such distribution and spread such costs amongst multiple third party data recipients, whereas the Internal Distribution fee is applicable to use by a single data recipient (and its affiliates).

User Fees. The Exchange believes that the fee structure differentiating Professional User fees from Non-Professional User fees for display use of the MEMOIR Depth feed is not unfairly discriminatory. This structure has long

[58] *See supra* notes 20–21.

been used by other exchanges and the SIPs to reduce the price of data to Non-Professional Users and make it more broadly available.[59] Offering the Exchange Data Feeds to Non-Professional Users with the same data as is available to Professional Users, albeit at a lower cost, results in greater equity among data recipients. These User fees would be charged uniformly to all individuals that have access to the Exchange Data Feeds based on the category of User. The Exchange also believes the proposed User fees for MEMOIR Depth are not unfairly discriminatory, with higher fees for Professional Users than Non-Professional Users, because Non-Professional Users may have less ability to pay for such data than Professional Users as well as less opportunity to profit from their usage of such data. The Exchange also believes the proposed User fees for MEMOIR Depth are not unfairly discriminatory, even though substantially higher than the proposed User fees for MEMOIR Top and MEMOIR Last Sale, because, as described above, MEMOIR Depth has significantly more information than the other Exchange Data Feeds and is thus potentially more valuable to such Users. The Exchange also believes the proposed User fees for MEMOIR Top and MEMOIR Last Sale are not unfairly discriminatory because the Exchange has proposed to charge Professional Users and Non-Professional Users the same low rate of $0.01 per month.

The Exchange further believes that its proposal to adopt a Digital Media Enterprise Fee for each of the Exchange Data Feeds and an Enterprise Fee for MEMOIR Top and MEMOIR Last Sale is not unfairly discriminatory because these optional alternatives to counting and paying for specific Users will provide market participants the ability to provide information from the Exchange Data Feeds to large numbers of Users without counting and paying for such Users. The Exchange also believes it is not unfairly discriminatory not to adopt an Enterprise Fee for MEMOIR Depth at this time as the Exchange does not believe there is sufficient demand for an Enterprise Fee given relatively low User counts for subscribers of MEMOIR Depth, as described above.

Non-Display Use Fees. The Exchange believes the proposed Non-Display Usage fees for the MEMOIR Depth feed are not unfairly discriminatory because they would require subscribers for non-display use to pay fees depending on their use of the data, either for operation of a Trading Platform or not, but would not impose multiple fees to the extent a Firm operates multiple Trading Platforms or has multiple different types of non-display use. As noted above, non-display data can be used by data recipients for a wide variety of profit-generating purposes as well as purposes that do not directly generate revenues but nonetheless substantially reduce the recipient's costs by automating certain functions. This segmented fee structure is not unfairly discriminatory because no subscriber of non-display data would be charged a fee for a category of use in which it did not actually engage.

The Exchange further believes that the fees for non-display use for operation of a Trading Platform and for non-display use other than operation of a Trading Platform are not unreasonably discriminatory because the Exchange is imposing the same flat fee for each category of non-display use.

The Exchange believes that it is not unreasonably discriminatory to charge a single fee for an operator of Trading Platforms that operates more than one Trading Platform because operators of Trading Platforms are many times viewed as a single competing venue or group, even if there a multiple liquidity pools operated by the same competitor. The Exchange again notes that certain competitors to the Exchange charge for non-display usage per Trading Platform,[60] in contrast to the Exchange's proposal. In turn, to the extent they subscribe to Exchange Data Feeds, these same competitors will benefit from the Exchange's pricing model to the extent they operate multiple Trading Platforms (as most do) by paying a single fee rather than paying for each Trading Platform that they operate that consumes Exchange Data Feeds.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the Exchange Data Feeds are not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[61] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange does not believe that the proposed fees for Exchange Data Feeds place certain market participants at a relative disadvantage to other market participants because, as noted above, the proposed fees are associated with usage of Exchange Data Feeds by each market participant based on the type of business they operate, and the decision to subscribe to one or more Exchange Data Feeds is based on objective differences in usage of Exchange Data Feeds among different Firms, which are still ultimately in the control of any particular Firm, and such fees do not impose a barrier to entry to smaller participants. Accordingly, the proposed fees for Exchange Data Feeds do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed fees reflects the types of Exchange Data Feeds consumed by various market participants and their usage thereof.

Inter-Market Competition

The Exchange does not believe the proposed fees place an undue burden on competition on other SROs that is not necessary or appropriate. In particular, market participants are not forced to subscribe to any of the Exchange Data Feeds, as described above. Additionally, other exchanges have similar market data fees in place for their participants, but with comparable and in many cases higher rates for market data feeds.[62] The proposed fees are based on actual costs and are designed to enable the Exchange to recoup its applicable costs with the possibility of a reasonable profit on its investment as described in the Purpose and Statutory Basis sections. Competing equities exchanges are free to adopt comparable fee structures subject to the SEC rule filing process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[63] and Rule 19b–4(f)(2)[64] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the

[59] *See supra* note 57.

[60] *See supra* notes 20–21.

[61] 15 U.S.C. 78f(b)(8).

[62] *See supra* notes 20–21; *see supra* note 23 and accompanying text.

[63] 15 U.S.C. 78s(b)(3)(A)(ii).

[64] 17 CFR 240.19b–4(f)(2).

public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2023–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MEMX–2023–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MEMX–2023–04 and should be submitted on or before April 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[65]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–05448 Filed 3–16–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97124; File No. SR–PEARL–2023–10]

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX PEARL, LLC To Amend the MIAX Pearl Equities Fee Schedule

March 13, 2023.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2023, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the fee schedule (the ''Fee Schedule'') applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Fee Schedule to: (i) reduce the Adding Liquidity Non-Displayed Order rebate in Section 1(a); (ii) increase the Removing Liquidity fee in Section 1(a); (iii) make conforming reductions to certain associated rebates and increases in certain associated fees in the Liquidity Indicator Codes and Associated Fees Table in Section 1(b); and (iv) amend the Remove Volume Tiers for executions of orders in securities priced at or above $1.00 in Section 1(d).

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 18% of the total market share of executed volume of equities trading.[3]

Reduced Standard Rebate for Added Liquidity Non-Displayed Volume

The Exchange proposes to reduce the standard rebate for executions of Added Non-Displayed Volume. Currently, the Exchange provides a standard rebate of ($0.0021) per share for executions of Added Non-Displayed Volume for securities priced at or above $1.00. The Exchange now proposes to reduce the standard rebate for executions of Added Non-Displayed Volume to ($0.00205) per share.[4] The Exchange notes that executions of orders in securities priced below $1.00 per share that add non-displayed liquidity to the Exchange will continue to receive the standard rebate

[65] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Market share percentage calculated as of February 27, 2023. The Exchange receives and processes data made available through consolidated data feeds.

[4] The standard pricing for executions of Added Non-Displayed Volume is referred to by the Exchange on its Fee Schedule in section 1(a) Standard Rates.

applicable to such executions (*i.e.,* 0.10% of the total dollar value of the transaction).

The purpose of reducing the standard rebate for executions of Added Non-Displayed Volume is for business and competitive reasons. The Exchange notes that despite the modest reduction proposed herein, the proposed standard rebate for execution of Added Non-Displayed Volume (*i.e.,* $0.00205 per share) remains higher than, and competitive with, the standard rebates provided by other exchanges for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity.[5]

Increase Standard Fee for Removed Volume

The Exchange also proposes to increase the standard fee charged for executions of Removed Volume. Currently, the Exchange charges a standard fee of $0.0029 per share for executions of Removed Volume in securities priced at or above $1.00. The Exchange now proposes to increase the standard fee charged for executions of Removed Volume to $0.00295 per share.[6] The fee charged for Removed Volume in securities priced below $1.00 will remain unchanged.

The purpose of increasing the standard fee for executions of Removed Volume is for business and competitive reasons. The Exchange notes that despite the modest increase proposed herein, the Exchange's proposed standard fee for executions of Removed Volume $0.00295 remains competitive with the standard fee to remove liquidity in securities priced at or above $1.00 per share charged by other equity exchanges.[7]

Liquidity Indicator Codes and Associated Fees Table Conforming Changes

In conjunction with the Exchange's proposal to (i) reduce the rebate for Non-Displayed Orders that Add Liquidity from ($0.0021) to ($0.00205), and (ii) increase the fee for Removing Liquidity from $0.0029 to $0.00295, the Exchange now proposes to update the Liquidity Indicator Codes and Associated Fees table to reflect the aforementioned changes. Specifically, the Exchange proposes to reduce certain Adding Liquidity Non-Displayed Order rebates in Section 1(b), and increase certain Removing Liquidity fees in Section 1(b). The Exchange proposes to update the liquidity indicator codes as follows:

- Liquidity indicator code Aa, Adds Liquidity, Non-Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Aa would receive a rebate of ($0.00205) per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code Ab, Adds Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ab would receive a rebate of ($0.00205) per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code Ac, Adds Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ac would receive a rebate of ($0.00205) per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code Ap, Adds Liquidity and Executes at the Midpoint, Non-Displayed Midpoint Peg Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ap would receive a rebate of ($0.00205) per share in securities priced at or above $1.00 or 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code Ar, Retail Order, Adds Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ar would receive a rebate of ($0.00205) per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code RA, Removes Liquidity, Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RA would be subject to a fee of $0.00295 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code RB, Removes Liquidity, Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RB would be subject to a fee of $0.00295 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code RC, Removes Liquidity, Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RC would be subject to a fee of $0.00295 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code RR, Retail Order, Removes Liquidity, Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RR would be subject to a fee of $0.00295 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code Ra, Removes Liquidity, Non-Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ra would be subject to a fee of $0.00295 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code Rb, Removes Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rb would be subject to a

[5] *See e.g.,* the Nasdaq PSX equities trading fee schedule on its public website (available at *http://www.nasdaqtrader.com/Trader.aspx?id=PSX_Pricing*), which reflects a standard rebate of $0.00050 per share to add non-displayed liquidity in securities priced at or above $1.00 per share; *see also* the Cboe BZX equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*), which reflects a standard rebate of $0.0010 per share to add non-displayed liquidity in securities priced at or above $1.00 per share; *see also* the NYSE equities trading fee schedule on its public website (available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf*), which reflects a standard rebate of $0.00000 per share to add non-displayed liquidity in securities priced at or above $1.00 per share.

[6] The proposed pricing is referred to by the Exchange on the Fee Schedule under the existing description ''Removing Liquidity'' in Section 1(a) Standard Rates.

[7] *See e.g.,* the Cboe BZX equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*) which reflects a standard fee of $0.0030 per share to remove liquidity in securities priced at or above $1.00 per share; *see also* the Cboe EDGX equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/*) which reflects a standard fee of $0.0030 per share to remove liquidity in securities priced at or above $1.00; *see also* MEMX equities trading fee schedule on its public website (available at *https://info.memxtrading.com/fee-schedule/*) which reflects a standard fee of $0.0030 per share to remove liquidity in securities priced at or above $1.00 per share.

fee of $0.00295 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code Rc, Removes Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rc would be subject to a fee of $0.00295 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code Rr, Retail Order, Removes Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rr would be subject to a fee of $0.00295 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

Increased Fee for Remove Volume Tiers

In conjunction with the Exchange's proposal to (i) reduce the rebate for Non-Displayed Orders that Add Liquidity from ($0.0021) to ($0.00205), and (ii) increase the fee for Removing Liquidity from $0.0029 to $0.00295, the Exchange also proposes to amend its volume-based tiered pricing structure applicable to the fees charged for executions of Removed Volume on the Exchange. Currently, the Exchange charges either: a fee of $0.0028 per share for executions of Removed Volume for Equity Members [8] (''Members'') that qualify for Tier 1 by achieving an ADV [9] that is equal to or greater than 0.10% of TCV [10] and equal to or greater than 1,000 shares of added liquidity; or a fee of $0.0027 per share for Members that qualify for Tier 2 by achieving an ADV that is equal to or greater than 0.15% of TCV and equal to or greater than 1,000 shares of added liquidity. The Exchange now proposes to increase the fee to $0.00285 per share for executions of Removed Volume Members that qualify for Tier 1 and $0.00275 per share for Members that qualify for Tier 2.

The Exchange believes that the proposed change to the Remove Volume Tiers table provides an incentive for Members to strive for higher ADV on the Exchange in order to qualify for the proposed lower fee for executions of Removed Volume. As such, the Remove Volume Tiers is designed to encourage Members to maintain or increase their order flow directed to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. The Exchange notes that the proposed fees for executions of Remove Volume applicable to Members that qualify for one of the Remove Volume Tiers (*i.e.,* $0.00285 or $0.00275) is related to the proposed changes to increase the fee for Removing Liquidity, discussed above.

Implementation

The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on March 1, 2023.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(4) of the Act [12] in particular, in that it is an equitable allocation of reasonable fees and other charges among its Equity Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and 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, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 18% of the total market share of executed volume of equities trading.[14] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents less than 2% of the overall market share.[15] The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [16]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance liquidity and market quality to

[8] The term ''Equity Member'' is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. *See* Exchange Rule 1901.

[9] The ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis, and the Exchange excludes from its calculation of ADV shares added or removed on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours, on any day with a scheduled early market close, and on the ''Russell Reconstitution Day'' (typically the last Friday in June). *See* the Definitions Section of the Exchange Fee Schedule.

[10] The ''TCV'' means total consolidated volume calculated as the volume in shares reported by all exchanges and reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. The Exchange excludes from its calculation of TCV volume on any given day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours, on any day with a scheduled early market close, and on the ''Russell Reconstitution Day'' (typically the last Friday in June). *See* the Definitions Section of the Exchange Fee Schedule.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78f(b)(5).

[14] *See supra* note 3.

[15] *Id.*

[16] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

the benefit of all Members and market participants.

Reduce Standard Rebate for Added Non-Displayed Volume

The Exchange believes that the proposed reduced standard rebate for executions of Added Non-Displayed Volume ($0.00205 per share) is reasonable and appropriate because it represents a modest decrease from the current standard rebate for executions of Added Non-Displayed Volume, and remains competitive with the standard rebates provided by at least one other exchange for orders in securities priced at or above $1.00 per share that add liquidity.[17] The Exchange further believes that the proposed reduced standard rebate for executions of Added Non-Displayed Volume are equitably allocated and not unfairly discriminatory because each will apply equally to all Members.

Increased Standard Fee for Removed Volume

The Exchange believes the proposed increased standard fee for executions of Removed Volume is reasonable and appropriate because it represents a modest increase from the current standard fee and, as noted above, remains lower than, and competitive with, the standard fee charged by several other exchanges to remove liquidity in securities priced at or above $1.00 per share.[18] The Exchange further believes that the proposed increased standard fee for executions of Removed Volume is equitably allocated and not unfairly discriminatory because it will apply to all Members.

Conforming Changes to Liquidity Indicator Codes

The Exchange believes its proposal to decrease the rebate provided for Non-Displayed Orders that add liquidity in securities priced at or above $1.00 from ($0.0021) to ($0.00205) per share is reasonable and equitably allocated among all Members of the Exchange. Liquidity indicator codes Aa, Ab, Ac, Ap, and Ar are appended to orders that add non-displayed liquidity. The Exchange believes its proposal is equitable and not unfairly discriminatory as it will apply to all Members equally.

The Exchange believes its proposal to increase the fee applied for orders that remove liquidity in securities priced at or above $1.00 per share is reasonable and equitably allocated among all Members of the Exchange. The Exchange believes its proposal to update the Liquidity Indicator Codes and Associated Fees table to reflect the new rate of $0.00295 per share for securities priced at or above $1.00 with liquidity indicator codes RA, RB, RC, RR, Ra, Rb, Rc, and Rr is equitable and reasonable because it will apply equally to all Members of the Exchange. Additionally, the Exchange believes its proposed change is reasonable as the Exchange is also proposing to amend the Remove Volume Tiers by which a Member can achieve reduced fees of $0.00285 or $0.0275 per share for securities priced at or above $1.00 upon satisfying certain criteria.

Increased Fee for Remove Volume Tiers

The Exchange believes that the proposed change to the Remove Volume Tiers is reasonable because it would provide Members with an additional incentive to achieve certain volume thresholds on the Exchange. The modest increase in the fee to $0.00285 per share for executions of Removed Volume Members that qualify for Tier 1 and $0.00275 per share for Members that qualify for Tier 2 are reasonable, equitable, and not unfairly discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and the introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes the proposed change to the Remove Volume Tier is equitable and not unfairly discriminatory for these same reasons, as it is open to all Members and is designed to encourage Members to maintain or increase their order flow directed to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. Moreover, the Exchange believes the proposed change to the Remove Volume Tiers is a reasonable means to incentivize such increased activity, as it provides two different thresholds that a Member may achieve by increasing their ADV to an amount equal to or greater than the specified TCV threshold.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed change would encourage Members to maintain or increase their order flow to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [19]

Intramarket Competition

The Exchange believes that the proposed changes would incentivize market participants to direct order flow to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send orders to the

[17] *See supra* notes 5 and 7.

[18] *See* the MEMX equities trading fee schedule on its public website (available at *https://info.memxtrading.com/fee-schedule/*) which reflects a standard fee of $0.0029; Cboe EDGX equities trading fee schedule on it its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/)* which reflects a standard fee of $0.0030; and Cboe BZX equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*) which reflects a standard fee of $0.0030.

[19] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 47396 (June 29, 2005).

Exchange, thereby contributing to robust levels of liquidity, which benefits all Members.

The opportunity to qualify for the Remove Volume Tiers, and thus receive the proposed lower fees for executions of Removed Volume, would be available to all Members that meet the associated volume requirement in any month. The Exchange believes that meeting the volume requirement of the Remove Volume Tiers is attainable for market participants, as the Exchange believes the thresholds are relatively low and reasonably related to the enhanced liquidity and market quality that the Remove Volume Tiers is designed to promote. Similarly, the proposed increased standard fee for executions of Removed Volume would apply equally to all Members. As such, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition as the Exchange operates in a highly competitive market. Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than 18% of the total market share of executed volume of equities trading.[20] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to executions of Removed Volume, and market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable.

As described above, the proposed changes are competitive proposals through which the Exchange is seeking to encourage additional order flow to the Exchange. Such proposed changes to (i) reduce the Adding Liquidity Non-Displayed Order rebate and (ii) increase the Removing Liquidity fee are comparable to, and competitive with, rates charged by other exchanges.[21] The proposed change to (iii) update the Liquidity Indicator Codes and Associated Fees table and (iv) increase the fee for Remove Volume Tiers is in conjunction with the Exchange's abovementioned proposed changes.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [22] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [23] Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[24] and Rule 19b–4(f)(2) [25] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2023–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2023–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

[20] *See* supra note 3.

[21] *See supra* notes 5 and 7.

[22] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[23] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSE–2006–21)).

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

[25] 17 CFR 240.19b–4(f)(2).

inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2023–10, and should be submitted on or before April 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–05443 Filed 3–16–23; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2022–0033]

Privacy Act of 1974; System of Records

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, we are issuing public notice of our intent to modify an existing system of records entitled, Disability Insurance and Supplemental Security Income Demonstration Projects and Experiments System (60–0218), last published on January 11, 2006. This notice publishes details of the modified system as set forth below under the caption, **SUPPLEMENTARY INFORMATION**.

DATES: The system of records notice (SORN) is applicable upon its publication in today's **Federal Register**, with the exception of the new routine uses, which are effective April 17, 2023. We invite public comment on the routine uses or other aspects of this SORN. In accordance with the Privacy Act of 1974, we are providing the public a 30-day period in which to submit comments. Therefore, please submit any comments by April 17, 2023.

ADDRESSES: The public, Office of Management and Budget (OMB), and Congress may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, or through the Federal e-Rulemaking Portal at *http://www.regulations.gov.* Please reference docket number SSA–2022–0033. All comments we receive will be available for public inspection at the above address and we will post them to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Tristin Dorsey, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone: (410) 966–5855, email: *tristin.dorsey@ssa.gov* and Matthew Burch, Government Information Specialist, Disclosure and Data Support Division, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone: (410) 966–5855, email: *matthew.burch@ssa.gov*.

SUPPLEMENTARY INFORMATION: We are modifying the system of records name from ''Disability Insurance and Supplemental Security Income Demonstration Projects and Experiments System, SSA, Deputy Commissioner for Disability Income and Security Programs'' to ''Disability Insurance and Supplemental Security Income Demonstration Projects and Experiments System.'' We are modifying the system manager and location to clarify the office responsible for maintaining the system and the locations of the records within the system.

We are clarifying the categories of individuals and the purpose of the system for easier reading. We are revising the authority for maintenance of the system to add section 1106 of the Social Security Act, as amended. We are expanding the categories of records to include name; address; and education, criminal justice, and program participation records. We are also updating the record source categories to include other Federal, State, and local agencies; existing SSA systems of records; and cooperative awardees or grantees.

In addition, we are deleting routine use Nos. 1 and Nos. 2 of the previously published notice, as portions of these routine uses are no longer applicable. We are incorporating applicable portions of the deleted routine uses into two new routine uses that will permit disclosures to a congressional office, for the purpose of responding to any inquiries received and to contractors and other Federal agencies, for the purpose of assisting SSA in the efficient administration of our programs.

We are adding six additional routine uses to permit disclosures to contractors, cooperative agreement awardees, Federal, State, and local agencies, and Federal congressional support agencies for research and statistical activities; to the Office of the President, for the purpose of responding to any inquiries received; to Federal, State, and local law enforcement agencies and private contractors, for the safety and security of SSA employees, customers, and facilities; to the Department of Justice (DOJ) for litigation purposes; to third party contacts that may have information relevant to determining the current contact information for a project participant; and to third parties, when an individual involved with a project needs assistance to communicate because of a hearing impairment or a language barrier. We are expanding the policies and practices for retrieval of records to include case number and other identifiers such as socioeconomic, demographic, medical, and disability characteristics.

Lastly, we are clarifying the policies and practices for the retention and disposal of records to advise of the appropriate records schedules. We are modifying the notice throughout to correct miscellaneous stylistic formatting and typographical errors of the previously published notice, and to ensure the language reads consistently across multiple systems. We are republishing the entire notice for ease of reference.

In accordance with 5 U.S.C. 552a(r), we have provided a report to OMB and Congress on this modified system of records.

Matthew Ramsey,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

SYSTEM NAME AND NUMBER:

Disability Insurance and Supplemental Security Income Demonstration Projects and Experiments System, 60–0218.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Social Security Administration, Office of Retirement and Disability Policy, Office of Research, Demonstration, and Employment Support, 6401 Security Boulevard, Baltimore, Maryland 21235.

Contractors, who maintain information on behalf of SSA—contact System Manager for contractor address information.

[26] 17 CFR 200.30–3(a)(12).

SYSTEM MANAGER(S):

Social Security Administration, Deputy Commissioner for Retirement and Disability Policy, Office of Research, Demonstration, and Employment Support, 6401 Security Boulevard, Baltimore, Maryland 21235, (410) 966–5855.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 222, 234, 1106, and 1110 of the Social Security Act, as amended; section 505 of the Social Security Disability Amendments of 1980 (Pub. L. 96–265); section 12101 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272); section 10103 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239); and section 5120 of the Omnibus Reconciliation Act of 1990 (Pub. L. 101–508).

PURPOSE(S) OF THE SYSTEM:

We will use the information in this system to perform and evaluate demonstrations and experiments, for the purpose of testing alternative approaches related to the prevention and reduction of dependency, or which will aid in effecting coordination of planning between private and public welfare agencies, or which will help improve the administration and effectiveness of programs carried on or assisted under the Social Security Act and related programs. This includes, but is not limited to, alternative approaches to continuing benefits eligibility during employment, and to the rehabilitation of title II (Disability Insurance (DI)) beneficiaries and individuals who apply for, or receive, title XVI (Supplemental Security Income (SSI)) payments on the basis of a disability or blindness. We will also use the information in this system for congressional reporting.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on participants in demonstrations or experiments, to include those in treatment and comparison groups. Individuals covered by the system include, but are not limited to, applicants, potential applicants, beneficiaries, and recipients of DI and SSI benefits, their representatives and auxiliaries, and those participating in related Federal, State, local, and other programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of records collected and used to conduct and evaluate demonstrations and experiments. Records may include, but are not limited to: name; address; demographic characteristics (*e.g.,* date of birth, sex, and state of residence); marital status; military service; family and household composition, including dependents; medical history (mental and physical); medical expenses; disability characteristics (*e.g.,* primary diagnosis code and dual eligibility) and health information; living arrangements; health insurance coverage and use; use of medical and rehabilitative services (*e.g.,* agency closure type and service use); employment data; occupation and industry classification; income data (including tax return information subject to section 6103 of the Internal Revenue Code (IRC)); earnings and expenditures; referrals to and participation in SSI and related Federal and State welfare programs; benefit history information; types of cost of services under DI, SSI, and related Federal and State welfare programs; reasons for, or circumstances of, closure; attitudes toward work rehabilitation or treatment programs; impairment-related work expenses; worker's compensation benefits; job search methods; knowledge and understanding of provisions affecting entitlement to benefits; participation in, and services rendered under, the Ticket-to-Work program; education records (*e.g.,* information pertaining to attendance, dropout, graduation, courses, course completion, course performance, offenses, exam performance, survey data, post-high school plans, and college preparatory activities); criminal justice records (*e.g.,* arrest or prisoner records); program participation records; and for SSI projects only, driver's license information and information concerning alcohol and drug use.

RECORD SOURCE CATEGORIES:

We obtain information in this system of records from existing SSA systems of records including, but not limited to: 60–0044, National Disability Determination Services File; 60–0058, Master Files of Social Security Number (SSN) Holders and SSN Applications; 60–0050, Completed Determination Record—Continuing Disability Determinations; 60–0059, Earnings Recording and Self-Employment Income System; 60–0089, Claims Folder System; 60–0090, Master Beneficiary Record; 60–0103, Supplemental Security Income Record and Special Veterans Benefits; 60–0094, Recovery of Overpayments, Accounting and Reporting/Debt Management System (ROAR/DMS); 60–0221, Vocational Rehabilitation Reimbursement Case Processing System; 60–0295, Ticket-to-Work and Self-Sufficiency Program Payment Database; 60–0300, Ticket-to-Work Program Manager Management Information System; 60–0320, Electronic Disability Claim File; and 60–0330, eWork.

We also obtain information from other sources including, but not limited to: other Federal, State, and local agencies; surveys; the individual to whom the record pertains; case service reports of vocational rehabilitation (VR) agencies and referral and monitoring agencies; employers; and contractors, cooperative awardees, or grantees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

We will disclose records pursuant to the following routine uses; however, we will not disclose any information defined as ''return or return information'' under 26 U.S.C. 6103 of the IRC, unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To the IRS, Department of the Treasury, for the purpose of auditing SSA's compliance with the safeguard provisions of the IRC of 1986, as amended.

2. To student volunteers, individuals working under a personal services contract, and other workers who technically do not have the status of Federal employees, when they are performing work for us, as authorized by law, and they need access to personally identifiable information (PII) in our records in order to perform their assigned agency functions.

3. To the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906.

4. To the Secretary of Health and Human Services or to any State, the Commissioner shall disclose any record of information requested in writing by the Secretary, for the purpose of administering any program administered by the Secretary, if records or information of such type were so disclosed under applicable rules, regulations, and procedures in effect before the date of enactment of the Social Security Independence and Program Improvements Act of 1994.

5. To appropriate agencies, entities, and persons when:

(a) SSA suspects or has confirmed that there has been a breach of the system of records;

(b) SSA has determined that, as a result of the suspected or confirmed breach, there is a risk of harm to individuals, SSA (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 SSA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

6. To another Federal agency or Federal entity, when we determine that information from this system of records 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.

7. To a congressional office in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or third party acting on the subject's behalf.

8. To contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We will disclose information under this routine use only in situations in which SSA may enter into a contractual or similar agreement to obtain assistance in accomplishing an SSA function relating to this system of records.

9. To contractors, cooperative agreement awardees, State agencies, Federal agencies, and Federal congressional support agencies for research and statistical activities that are designed to increase knowledge about present or alternative Social Security programs; are of importance to the Social Security program or beneficiaries; or are for an epidemiological project that relates to the Social Security program or beneficiaries. We will disclose information under this routine use pursuant only to a written agreement between the organization or agency and SSA.

10. To the Office of the President, in response to an inquiry received from that office made on behalf of, and at the request of, the subject of record or a third party acting on the subject's behalf.

11. To Federal, State, and local law enforcement agencies and private security contractors, as appropriate, information necessary:

(a) to enable them to protect the safety of SSA employees and customers, the security of our workplace and the operation of our facilities, or

(b) to assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operation of our facilities.

12. To DOJ, a court or other tribunal, or another party before such court or tribunal, when:

(a) SSA, or any component thereof; or

(b) any SSA employee in their official capacity; or

(c) any SSA employee in their individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof, where SSA determines the litigation is likely to affect SSA or any of its components, is a party to the litigation or has an interest in such litigation, and we determine that the use of such records by DOJ, a court or other tribunal, or another party before the tribunal, is relevant and necessary to the litigation, provided, however, that in each case, we determine that such disclosure is compatible with the purpose for which the records were collected.

13. To third party contacts that may have information relevant to determining the current contact information for a project participant, when the agency has been unsuccessful in establishing contact.

14. To third parties, when an individual involved with a project needs assistance to communicate because of a hearing impairment or a language barrier exists (*e.g.,* to interpreters, telecommunications relay system operators).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

We will maintain records in this system in paper form and in electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

We will retrieve records in this system by case number or SSN. We will also retrieve records by other identifiers such as name; date of birth; address; sex; and geographic, socioeconomic, demographic, medical, and disability characteristics, as possible in specific file structures for individual projects.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with NARA rules codified at 36 CFR 1225.16, we maintain records in accordance with the applicable sections of the approved agency-specific records schedule, N1–047–09–05, Supplemental Security Income Record, and approved NARA General Records Schedule (GRS) 4.2, item 130 and GRS 5.2, item 020.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

We retain electronic and paper files with personal identifiers in secure storage areas accessible only by our authorized employees and contractors who have a need for the information when performing their official duties. Security measures include the use of codes and profiles, personal identification numbers and passwords, and personal identification verification cards. We keep paper records in locked cabinets within secure areas, with access limited to only those employees who have an official need for access in order to perform their duties. To the maximum extent consistent with the approved research needs, we purge personal identifiers from micro-data files prepared for purposes of research and subject these files to procedural safeguards to assure anonymity.

We annually provide our employees and contractors with appropriate security awareness training that includes reminders about the need to protect PII and the criminal penalties that apply to unauthorized access to, or disclosure of, PII (5 U.S.C. 552a(i)(1)). Furthermore, employees and contractors with access to databases maintaining PII must sign a sanctions document annually, acknowledging their accountability for inappropriately accessing or disclosing such information.

RECORD ACCESS PROCEDURES:

Individuals may submit requests for notification of, or access to, information about them contained in this system by submitting a written request to the system manager at the above address, which includes their name, SSN, or other information that may be in this system of records that will identify them. Individuals requesting notification of, or access to, a record by mail must include (1) a notarized statement to verify their identity or (2) must certify in the request that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

Individuals requesting notification of, or access to, records may also make an in-person request by providing their name, SSN, or other information that may be in this system of records that will identify them, as well as provide an identifying document, preferably with a photograph, such as a driver's license. Individuals lacking identification documents sufficient to establish their identity must certify in writing that they

are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense. These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

CONTESTING RECORD PROCEDURES:

Same as record access procedures. Individuals should also reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These procedures are in accordance with our regulations at 20 CFR 401.65(a).

NOTIFICATION PROCEDURES:

Same as record access procedures. These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 1836, Disability Insurance and Supplemental Security Income Demonstration Projects and Experiments System.

72 FR 69723, Disability Insurance and Supplemental Security Income Demonstration Projects and Experiments System.

83 FR 54969, Disability Insurance and Supplemental Security Income Demonstration Projects and Experiments System.

[FR Doc. 2023–05455 Filed 3–16–23; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 12010]

U.S. Advisory Commission on Public Diplomacy Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy (ACPD) will hold an in-person public meeting on ''The Role of Public Diplomacy in Democracy Promotion'' with online (Zoom) access on Thursday, April 13, 2023, from 11:00 a.m. until 12:15 p.m. PT (2:00 p.m. until 3:15 p.m. ET). During the meeting, a distinguished panel of experts, including Larry Diamond, Michael McFaul, and Kathryn Stoner, will discuss how USG public diplomacy programs can most effectively promote and defend democratic values in an increasingly authoritarian and illiberal global context.

This meeting is open to the public, including the media and members and staff of governmental and non-governmental organizations. The event will take place at the Philippines Conference Room, Encina Hall, Third Floor, Central, C330, 616 Jane Stanford Way, Stanford, CA 94305, Center on Democracy, Development and the Rule of Law, Stanford University. Please register for the event at *https://cddrl.fsi.stanford.edu/events/role-public-diplomacy-democracy-promotion.* Doors will open at 10:30 a.m.

To request reasonable accommodation, please email ACPD Program Assistant Kristy Zamary at *ZamaryKK@state.gov.* Please send any request for reasonable accommodation no later than Monday, April 3, 2023. Requests received after that date will be considered but might not be possible to fulfill.

Since 1948, the ACPD has been charged with appraising activities intended to understand, inform, and influence foreign publics and to increase the understanding of, and support for, these same activities. The ACPD conducts research that provides honest assessments of public diplomacy efforts, and disseminates findings through reports, white papers, and other publications. It also holds public symposiums that generate informed discussions on public diplomacy issues and events. The Commission reports to the President, Secretary of State, and Congress and is supported by the Office of the Under Secretary of State for Public Diplomacy and Public Affairs.

For more information on the U.S. Advisory Commission on Public Diplomacy, please visit *https://www.state.gov/bureaus-offices/under-secretary-for-public-diplomacy-and-public-affairs/united-states-advisory-commission-on-public-diplomacy/,* or contact Executive Director Vivian S. Walker at *WalkerVS@state.gov* or Senior Advisor Deneyse Kirkpatrick at *kirkpatrickda2@state.gov.*

Authority: 22 U.S.C. 2651a, 22 U.S.C. 1469, 5 U.S.C. Appendix, and 41 CFR 102–3.150.

Kristina K. Zamary,

Department of State.

[FR Doc. 2023–05412 Filed 3–16–23; 8:45 am]

BILLING CODE 4710–45–P

SURFACE TRANSPORTATION BOARD

60-Day Notice of Intent To Seek Extension of Approval of Collection: Rail Depreciation Studies

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for an extension of the collection of Rail Depreciation Studies, described below.

DATES: Comments on this information collection should be submitted by May 16, 2023.

ADDRESSES: Direct all comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001, or to *PRA@stb.gov.* When submitting comments, please refer to ''Paperwork Reduction Act Comments, Rail Depreciation Studies.'' For further information regarding this collection, contact Pedro Ramirez at (202) 245–0333 or *pedro.ramirez@stb.gov.* Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Comments are requested concerning each collection as to (1) whether the particular collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. Submitted comments will be included and summarized in the Board's request for OMB approval.

Subjects: In this notice, the Board is requesting comments on the extension of the following information collection:

Description of Collection

Title: Rail Depreciation Studies.
OMB Control Number: 2140–0028.
Form Number: None.
Type of Review: Extension without change.
Respondents: Class I railroads.
Number of Respondents: Seven.
Estimated Time per Response: Approximately 250 hours per study (estimating that studies will require between 125 hours and 375 hours depending on the extent to which the carrier provides assistance to outside consultants performing the study for them)
Frequency of Response: Bi-annual. (Under 49 CFR part 1201, §§ 4–1 to 4–

4, the Board requires all Class I (large) carriers to submit depreciation studies no less than every three years for equipment property and every six years for road property. That means that for any given six-year period, the Class I railroads must submit no less than three depreciation reports, or the equivalent of 0.5 depreciation reports per year.)

Total Annual Hour Burden: 875 hours (250 hours × 0.5 studies/year × 7 Class I railroads).

Total Annual ''Non-Hour Burden'' Cost: Approximately $210,000 per year. Board staff estimates that each study will cost between $20,000 and $100,000, which equals a cost of approximately $10,000–$50,000 per year. Using an average cost ($30,000 per year × 7 Class I railroads), the non-hour burden cost is estimated to be approximately $210,000 per year.

Needs and Uses: Under 49 CFR part 1201, §§ 4–1 to 4–4, the Board is required to identify those classes of property for which rail carriers may include depreciation charges under operating expenses, and the Board must also prescribe a rate of depreciation that may be charged to those classes of property. Under 49 U.S.C. 11145, Class I rail carriers are required to submit Depreciation Studies to the Board. Information in these studies is not available from any other source. The Board uses the information in these studies to prescribe depreciation rates. These depreciation rate prescriptions state the period for which the depreciation rates therein are applicable. Class I railroads apply the prescribed depreciation rates to their investment base to determine monthly and annual depreciation expense. This expense is included in the railroads' operating expenses, which are reported in their R–1 reports (OMB Control Number 2140–0009). Operating expenses are used to develop operating costs for application in various proceedings before the Board, such as in rate reasonableness cases and in the determination of railroad ''revenue adequacy.''

Under the PRA, a Federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 44 U.S.C. 3506(c)(2)(A), Federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Information from certain schedules contained in these reports is available at the Board's website at *www.stb.gov* by navigating to ''Reports & Data'' and clicking on ''Economic Data.'' Information in these reports is not available from any other source.

Dated: March 14, 2023.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2023–05493 Filed 3–16–23; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

60-Day Notice of Intent To Seek Extension of Approval of Collection: Recordations (Rail and Water Carrier Liens), Water Carrier Tariffs, and Agricultural Contract Summaries

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for the extension (without change) of the collections required by statute for rail or water carrier equipment liens (recordations), water carrier tariffs, and rail agricultural contract summaries, as described in more detail below.

DATES: Comments on this information collection should be submitted by May 16, 2023.

ADDRESSES: Direct all comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001, or to *PRA@stb.gov*. When submitting comments, please refer to ''Paperwork Reduction Act Comments, Recordations (Rail and Water Carrier Liens), Water Carrier Tariffs, and Agricultural Contract Summaries.'' For further information regarding this collection, contact Mike Higgins at (866) 254–1792 (toll-free) or 202–245–0238, or by emailing *rcpa@stb.gov.* Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Comments are requested concerning each collection as to (1) whether the particular collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. Submitted comments will be included and summarized in the Board's request for OMB approval.

Description of Collections

Collection Number 1

Title: Agricultural Contract Summaries.

OMB Control Number: 2140–0024.

Form Number: None.

Type of Review: Extension without change.

Number of Respondents: Approximately 10 (seven Class I [large] railroads and a limited number of other railroads).

Frequency: On occasion. (Over the last three years, respondents have filed an average of 172 agricultural contract summaries per year. The same number of filings is expected during each of the next three years.)

Estimated Time per Response: Approximately 0.25 hours.

Total Burden Hours (annually including all respondents): 43 hours (172 submissions × 0.25 hours estimated per submission).

Total Annual ''Non-Hour Burden'' Cost: There are no non-hourly burden costs for this collection. The collection is filed electronically.

Needs and Uses: Under 49 U.S.C. 10709(d), railroads are required to file a summary of the nonconfidential terms of any contract for the transportation of agricultural products.

Collection Number 2

Title: Recordations (Rail and Water Carrier Liens).

OMB Control Number: 2140–0025.

Form Number: None.

Type of Review: Extension without change.

Respondents: Parties holding liens on rail equipment or water carrier vessels, and carriers filing proof that a lien has been removed.

Number of Respondents: Approximately 50 respondents.

Frequency: On occasion. (Over the last three years, respondents have filed an average of 1,850 responses per year. The same number of filings is expected during each of the next three years.)

Estimated Time per Response: Approximately 0.25 hours.

Total Burden Hours (annually including all respondents): 462.5 hours (1,850 submissions × 0.25 hours estimated per response).

Total ''Non-Hour Burden'' Cost: There are no non-hourly burden costs for this collection. The collection may be filed electronically.

Needs and Uses: Under 49 U.S.C. 11301 and 49 CFR part 1177, liens on rail equipment or water carrier vessels must be filed with the STB in order to perfect a security interest in the equipment. Subsequent amendments, assignments of rights, or release of obligations under such instruments must also be filed with the agency. This information is maintained by the Board for public inspection. Recordation at the STB obviates the need for recording the liens in individual States.

Collection Number 3

Title: Water Carrier Tariffs.

OMB Control Number: 2140–0026.

Form Number: None.

Type of Review: Extension without change.

Respondents: Water carriers that provide freight transportation in noncontiguous domestic trade.

Number of Respondents: Approximately 22.

Frequency: Annual certification.

Total Burden Hours (annually including all respondents): 77 hours (22 annual filings × 3.5 hours estimated time per certification).

Total ''Non-Hour Burden'' Cost: There are no non-hourly burden costs for this collection. The annual certifications will be submitted electronically.

Needs and Uses: Under 49 U.S.C. 13702(b) and 49 CFR part 1312, in lieu of individual tariffs, water carriers that provide freight transportation in noncontiguous domestic trade (*i.e.,* shipments moving to or from Alaska, Hawaii, or the U.S. territories or possessions (Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands) to or from the mainland U.S.) may file an annual certification with the Board that includes the internet address of a website containing a list of current and historical tariffs (including prices and fees that the water carrier charges to the shipping public).

The Board makes this submission because, under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 44 U.S.C. 3506(c)(2)(A), federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: March 14, 2023.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2023–05490 Filed 3–16–23; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

60-Day Notice of Intent To Seek Extension of Approval of Collection: System Diagram Maps

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for an extension of the collection of system diagram maps, described below.

DATES: Comments on this information collection should be submitted by May 16, 2023.

ADDRESSES: Direct all comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001, or to *PRA@stb.gov.* When submitting comments, please refer to ''Paperwork Reduction Act Comments, System Diagram Maps.'' For further information regarding this collection, contact Pedro Ramirez at (202) 245–0333 or *pedro.ramirez@stb.gov.* Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Comments are requested concerning each collection as to (1) whether the particular collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. Submitted comments will be included and summarized in the Board's request for OMB approval.

Description of Collection

Title: System Diagram Maps (or, in the case of Class III carriers, the alternative narrative description of rail system).

OMB Control Number: 2140–0003.

Form Number: None.

Type of Review: Extension without change.

Respondents: Common carrier freight railroads that are either new or reporting changes in the status of one or more of their rail lines.

Number of Respondents: 1.

Estimated Time per Response: 5 hours.

Frequency of Response: On occasion.

Total Annual Burden Hours: 5 hours.

Total ''Non-Hour Burden'' Cost: No ''non-hour cost'' burdens associated with this collection have been identified. The information is submitted electronically.

Needs and Uses: Under 49 CFR 1152.10–1152.13, railroads subject to the Board's jurisdiction must keep current system diagram maps on file, or alternatively, in the case of a Class III carrier, to submit the same information in narrative form. The information sought in this collection identifies all lines in a particular railroad's system, categorized to indicate the likelihood that service on a particular line will be abandoned and/or whether service on a line is currently provided under the financial assistance provisions of 49 U.S.C. 10904. Carriers are obligated to amend these maps as the need to change the category of any particular line arises.

The Board makes this submission because, under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 44 U.S.C. 3506(c)(2)(A), federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: March 14, 2023.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2023–05513 Filed 3–16–23; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

60-Day Notice of Intent To Seek Extension of Approval of Collection: Arbitration ''Opt-In'' Notices

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for an extension of the collection of Arbitration ''Opt-in'' Notices, described below.

DATES: Comments on this information collection should be submitted by May 16, 2023.

ADDRESSES: Direct all comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001, or to *PRA@stb.gov.* When submitting comments, please refer to ''Paperwork Reduction Act Comments, Arbitration 'Opt-In' Notices.'' For further information regarding this collection, contact Mike Higgins at (866) 254–1792 (toll-free) or 202–245–0238, or by emailing *rcpa@stb.gov.* Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Comments are requested concerning each collection as to (1) whether the particular collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. Submitted comments will be included and summarized in the Board's request for OMB approval.

Description of Collection

Title: Arbitration ''Opt-in'' Notices.
OMB Control Number: 2140–0020.
Form Number: None.
Type of Review: Extension without change.
Respondents: All regulated rail carriers.
Number of Respondents: One.
Estimated Time per Response: 0.5 hours.
Frequency: Annually.
Total Burden Hours (annually including all respondents): 0.5 hours.
Total ''Non-Hour Burden'' Cost: None identified. Filings are submitted electronically to the Board.

Needs and Uses: Under 49 CFR 1108.3, rail carriers subject to the Board's jurisdiction may agree to participate in the Board's arbitration program by filing a notice with the Board to ''opt in.'' Once a rail carrier is participating in the Board's arbitration program, it may discontinue its participation only by filing a notice to ''opt out'' with the Board, which would become effective 90 days after its filing.

The Board makes this submission because, under the PRA, a Federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 44 U.S.C. 3506(c)(2)(A), Federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: March 14, 2023.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2023–05492 Filed 3–16–23; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2022–1186; Summary Notice No.—2023–04]

Petition for Exemption; Summary of Petition Received; Faith Lutheran Oder Family Flight Academy

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before April 6, 2023.

ADDRESSES: Send comments identified by docket number FAA–2022–1186 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

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

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nia Daniels, (202) 267–7626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Angela O. Anderson,

Director, Regulatory Support Division, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2022–1186.
Petitioner: Faith Lutheran Oder Family Flight Academy.
Section of 14 CFR Affected: §§ 61.123(a), 61.213(a)(1).
Description of Relief Sought: The Faith Lutheran Oder Family Flight

Academy seeks an exemption from Title 14 Code of Federal Regulations §§ 61.123(a) and 61.213(a)(1) that would allow their students who hold a private pilot certificate and are 17 years of age to be eligible for a commercial pilot certificate and a ground instructor certificate.

[FR Doc. 2023–05434 Filed 3–16–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land Use Assurance Durango-La Plata County Airport, Durango, Colorado

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of request to waive aeronautical land use assurance.

SUMMARY: The FAA proposes to rule and invite public comment on a proposal from the Durango-La Plata County Airport, Aviation Director to change a portion of the airport from aeronautical use to non-aeronautical use at Durango-La Plata County Airport, Durango, Colorado. The proposal involves a parcel of airport property on the Southeast side of the airfield.

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**. Emailed comments can be provided to Mr. John Sweeney, Lead Planner, Denver Airports District Office, *john.sweeney@faa.gov,* (303) 342–1263.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Vicari, Aviation Director, Durango-La Plata County Airport, 1000 Airport Road, Durango, CO 81303, *tony.vicari@durangogov.org,* (970) 382–6052; or John Sweeney, Lead Planner, Denver Airports District Office, 26805 E 68th Ave., Suite 224, Denver, CO 80249, *john.sweeney@faa.gov,* (303) 342–1263. Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to change a portion of the airport from aeronautical use to non-aeronautical use under the provisions of title 49, U.S.C. 47153(c), and 47107(h)(2). The proposal consists of 25.29 acres located South of County Road 309A. The land is currently identified as non-aeronautical use on the Airport Layout Plan (ALP), although no formal release from aeronautical obligations was previously granted. This section of Parcel Q is separated from the majority of airport property by County Road 309A. The FAA concurs that the parcel is no longer needed for airport purposes. The proposed use of this property is compatible with existing airport operations in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, as published in the **Federal Register** on February 16, 1999.

Issued in Denver, Colorado, on March 13, 2023.

John P. Bauer,

Manager, Denver Airports District Office.

[FR Doc. 2023–05414 Filed 3–16–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering, and Development Advisory Committee; Notice of Public Meeting

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the Research, Engineering, and Development Advisory Committee (REDAC).

DATES: The meeting will be held on April 12, 2023, from 9:30 a.m.–4 p.m. EST.

Requests for accommodations for a disability must be received by March 28, 2023. Individuals requesting to speak during the meeting must submit a written copy of their remarks to DOT by March 28, 2023. Requests to submit written materials to be reviewed during the meeting must be received no later than March 28, 2023.

ADDRESSES: The meeting will be held in a hybrid setting to permit virtual participation. Virtual attendance information will be provided upon registration. The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591. A detailed agenda will be available on the REDAC internet website at *http://www.faa.gov/go/redac* at least one week before the meeting, along with copies of the meeting minutes after the meeting.

FOR FURTHER INFORMATION CONTACT: Chinita Roundtree-Coleman, REDAC PM/Lead, FAA/U.S. Department of Transportation, at *chinita.roundtree-coleman@faa.gov* or (609) 485–7149 or (609) 569–3729. Any committee-related request should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The REDAC was created under the Federal Advisory Committee Act, in accordance with Public Law (Pub. L.) 100–591 (1988) and Public Law 101–508 (1990), to provide advice and recommendations to the FAA Administrator in support of the Agency's Research and Development (R&D) portfolio.

II. Agenda

At the meeting, the agenda will cover the following topics:

- FAA R&D Strategies, Initiatives, and Planning
- Impacts of emerging technologies, new entrant vehicles, and dynamic operations within the National Airspace System

III. Public Participation

DOT is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

There will be 45 minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for each commenter may be limited. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name, address, and organizational affiliation of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the FAA may conduct a lottery to determine the speakers. Speakers are asked to submit a written copy of their prepared remarks for inclusion in the meeting records and for circulation to REDAC members before the deadline listed in the **DATE** section. All prepared remarks submitted on time will be accepted and considered as part of the meeting's record. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, this 13th day of March, 2023.

Chinita Roundtree-Coleman,

REDAC PM/Lead, Federal Aviation Administration.

[FR Doc. 2023–05454 Filed 3–16–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2022–0027]

Notice and Request for Comment on FHWA's Review of its General Applicability Waiver of Buy America Requirements for Manufactured Products

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice; request for comments.

SUMMARY: The FHWA is seeking comments on its existing general applicability waiver for manufactured products under its Buy America waiver authorities. Following review and consideration of comments, FHWA will publish a determination on whether to continue, discontinue, or otherwise modify the waiver and will consider other actions related to the implementation of Buy America requirements for manufactured products.

DATES: Comments must be received by April 17, 2023.

ADDRESSES: Please submit your comments to the Federal eRulemaking Portal at *www.regulations.gov/,* Docket: FHWA–2022–0027, and follow the online instructions for submitting comments.

Instructions: You must include the agency name and docket number at the beginning of your comments. Except as described below under the heading ''Confidential Business Information,'' all submissions received, including any personal information provided, will be posted without change or alteration to *www.regulations.gov.* For more information, you may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Brian Hogge, FHWA Office of Infrastructure, 202–366–1562, or via email at *Brian.Hogge@dot.gov.* For legal questions, please contact Mr. David Serody, FHWA Office of the Chief Counsel, 202–366–4241, or via email at *David.Serody@dot.gov.* Office hours for FHWA are from 8 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of this notice, all comments received on this notice, and all background material may be viewed online at *www.regulations.gov* using the docket number listed above. Electronic retrieval assistance and guidelines are also available at *www.regulations.gov.* An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at: *www.FederalRegister.gov* and the Government Publishing Office's website at: *www.GovInfo.gov.*

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. You may ask FHWA to give confidential treatment to information you give to the Agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send FHWA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. FHWA will protect confidential information complying with these requirements to the extent required under applicable law. If DOT receives a FOIA request for the information that the applicant has marked in accordance with this notice, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.29. Only information that is marked in accordance with this notice and ultimately determined to be exempt from disclosure under FOIA and § 7.29 will not be released to a requester or placed in the public docket of this notice. Submissions containing CBI should be sent to: Mr. Brian Hogge, FHWA, 1200 New Jersey Avenue SE, HICP–20, Washington, DC 20590. Any comment submissions that FHWA receives that are not specifically designated as CBI will be placed in the public docket for this matter.

FHWA encourages commenters to share all information responsive to the questions below, including confidential information. Doing so will allow FHWA to have a complete picture of the effects of continuing, discontinuing, or modifying the existing general applicability waiver for manufactured products. Submitting information on domestic production or plans to increase domestic production will ensure that FHWA can make informed decisions to protect domestic manufacturers' investments from international competition.

Executive Order 14005

In January 2021, President Biden issued Executive Order (E.O.) 14005, titled Ensuring the Future is Made in All of America by All of America's Workers (86 FR 7475, Jan. 28, 2021). The E.O. sets forth a policy that Agencies should, consistent with applicable law, maximize the use of goods, products, and materials produced in, and services offered in, the United States. The E.O. helps promote private sector investment in the production of goods critical to our national security and economic stability. As we bolster domestic supply chains, we create jobs, strengthen our manufacturing sector, and create economic opportunities for more of America's small businesses. FHWA is committed to ensuring strong and effective Buy America implementation consistent with E.O. 14005.

Build America, Buy America Act of 2021

On November 15, 2021, the President signed into law the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (IIJA), (Pub. L. 117–58). The BIL includes the Build America, Buy America Act (''BABA''), which expands the coverage and application of Buy America preferences in Federal financial assistance programs for infrastructure. BIL, div. G §§ 70901–27.

BABA requires that iron, steel, manufactured products, and construction materials made available for a Federal financial assistance program for infrastructure be produced in the United States. BABA § 70914. However, BABA provides that the preferences under Section 70914 apply only to the extent that a domestic content procurement preference as described in Section 70914 does not already apply to iron, steel, manufactured products, and construction materials. BABA § 70917(a)–(b). By statute at 23 U.S.C. 313, as discussed below, FHWA has existing Buy America domestic content preferences for steel, iron, and manufactured products.

In the case of manufactured products, the statute defines ''produced in the United States'' to mean that:

(i) the manufactured product was manufactured in the United States; and (ii) the cost of the components of the

manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

BABA § 70912(6)(B).

In addition, BABA expresses a general policy preference against general applicability waivers. For example, Section 70913(c) of BABA requires Federal Agencies to identify ''deficient programs'' for financial assistance, including programs that are ''subject to a waiver of general applicability not limited to the use of specific products for use in a specific project.'' BABA § 70913(c)(2). Section 70914(d) also requires Federal Agencies to review existing general applicability waivers of Buy America requirements by publishing in the **Federal Register** a notice that: (i) describes the justification for a general applicability waiver; and (ii) requests public comments for a period of not less than 30 days on the continued need for the general applicability waiver. BABA § 70914(d). Obtaining information through this notice will help FHWA determine the current state of domestic production of manufactured products and what may be required to incentivize increase domestic production, in line with the goals of BABA and E.O. 14005. At the same time, FHWA will also consider how to ensure that manufactured products are widely available in the immediate future for FHWA-funded projects in the United States.

Following the initial notice and review and consideration of comments received, the Agency must publish in the **Federal Register** a determination on whether to continue or discontinue the general applicability waiver. *Id.* Through this notice, FHWA describes the original justification for its general waiver for manufactured products and seeks public comments on whether it continues to be justified.

FHWA Buy America Requirements

Section 313(a) of title 23, U.S.C. requires that all steel, iron, and manufactured products used in FHWA-funded projects be produced in the United States. Under 23 U.S.C. 313(b) and its implementing regulation at 23 CFR 635.410(c), FHWA can waive the application of this requirement if their application would be inconsistent with the public interest, or if products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.[1] Using this authority, FHWA issued in 1983 a public interest waiver of general applicability of FHWA's Buy America requirement for manufactured products (Manufactured Products General Waiver). 48 FR 53099 (Nov. 25, 1983). Based on the Manufactured Products General Waiver, which is the subject of this notice and discussed in more detail below, FHWA does not currently apply the Buy America requirements to manufactured products except for predominantly steel and iron manufactured products and predominantly steel and iron components of manufactured products. FHWA also applies the BABA domestic preference requirements to construction materials.

For all predominantly steel or iron materials, products, or components delivered to a project site for permanent incorporation into a highway project using Title 23, U.S.C. funds, all manufacturing processes, including application of a coating, must occur in the U.S. *See* 23 CFR 635.410. Coating includes all processes that protect or enhance the value of the material to which the coating is applied. Such projects involve both the acquisition and installation of such equipment. Under existing policy and practice, FHWA applies its Buy America requirement to both predominantly steel and iron products and predominantly steel and iron components of manufactured products even if the product itself is not predominantly steel and iron.[2] In addition, FHWA's Buy America requirement applies to all contracts, regardless of the funding source, if any contract within the scope of a determination under the National Environmental Policy Act involves an obligation of Title 23, U.S.C. funds. *See* 23 U.S.C. 313(h).

In general, FHWA will consider a Buy America waiver only when the conditions of 23 U.S.C. 313(b) and Section 70914(b) of BABA have been met. Section 635.410(c) of Title 23 CFR establishes FHWA's process for consideration of waivers under 23 U.S.C. 313(b). Section 70914(d) of BABA, described above, also sets forth a process for Federal Agencies to review existing general applicability waivers of Buy America requirements. This notice is being issued pursuant to the requirement in Section 70914(d) of BABA that Agencies review general applicability waivers, and in accordance with the process set forth therein. The general applicability waiver being reviewed here is the existing Manufactured Products General Waiver.

Nationwide General Applicability Waiver for Manufactured Products

FHWA's Buy America requirements for the Federal-aid highway program were first established in 1978 through Section 401 of the Surface Transportation Assistance Act (1978 STAA), Public Law 95–599 (1978). In 1982, these requirements were modified by Section 165 of the Surface Transportation Assistance Act (1983 STAA), Public Law 97–424 (1983), which provides the basic statutory language for FHWA's current Buy America requirements.[3] The Moving Ahead for Progress in the 21st Century Act (MAP–21) codified this provision in 23 U.S.C. 313. The provision prohibits the obligation of Federal-aid Highway funds for projects unless steel, iron, and manufactured products used in such projects are produced in the United States.

Following the 1978 STAA, FHWA issued an emergency rule to implement the Buy America requirement. Simultaneously, FHWA granted a general waiver for manufactured products. At the time, FHWA explained that foreign structural steel was the only commodity having a significant nationwide effect on the cost of Federal-aid highway construction projects. While natural materials (such as sand, stone, gravel, and earth materials) and petroleum-based products (such as fuels, lubricants, and bituminous

[1] 23 U.S.C. 313(b)(3) also allows for FHWA to waive the application of 23 U.S.C. 313(a) if inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent. FHWA implements this provision in 23 CFR 635.410(b)(3).

[2] *See* FHWA's Buy America Questions and Answers for the Federal-aid program, available at *https://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm.* The answer to question 12 explains that FHWA's Buy America requirements apply to any predominantly steel or iron component of a manufactured product regardless of the overall composition of the manufactured product.

[3] In 1978, Section 401 of the Surface Transportation Assistance Act, Public Law 95–599 (1978) provided broad domestic origin requirements for various materials and supplies used in the Federal-aid highway program. In 1982, these requirements were modified by Section 165 of the Surface Transportation Assistance Act (STAA), Public Law 97–424 (1983), which provides the current source legislation for FHWA's Buy America requirements. Section 165 provided that, with exceptions, funds authorized by the STAA of 1982, title 23 of the United States Code, and certain other laws may not be obligated for highway projects unless steel, cement, and manufactured products used in such projects are produced in the United States. In 1984, Congress amended Section 165(a) of the 1983 STAA by removing the word ''cement.'' Public Law 98–229, 98 Stat. 55, Sec. 10. In addition, Congress added coverage for iron in 1991. Intermodal Surface Transportation Efficiency Act (ISTEA), Public Law 102–240, Section 1048(a) (1991).

products) were also used in large amounts in Federal-aid highway construction projects, foreign competition in natural materials was not significant due to their high transportation cost and the lack of availability of petroleum-based products from domestic sources in sufficient and reasonable quantities. Thus, FHWA found that it was in the public interest to waive the Buy America requirements for products and materials other than structural steel. *See* 43 FR 53717–01 (Nov. 17, 1978) and 45 FR 77455–01 (Nov. 24, 1980).

In 1983, following passage of the 1983 STAA, FHWA reaffirmed that it continued to be in the public interest to waive the Buy America requirements for manufactured products. *See* 48 FR 1946 (Jan. 17, 1983); 48 FR 53099 (Nov. 25, 1983). Because the Manufactured Products General Waiver issued in the preamble to the 1983 final rule is a waiver of general applicability that is not subject to a project-by-project determination, FHWA refers to it as a general waiver.

2013 Request for Comments on the General Applicability Waiver for Manufactured Products

On July 10, 2013, FHWA published a request for comments in the **Federal Register** (78 FR 41492) (2013 RFC) regarding the continued need, in whole or in part, for the Manufactured Products General Waiver.[4] FHWA asked questions including:

- Has the nature of the Federal-aid highway program and the U.S. steel/iron manufacturing industry changed to such a degree that FHWA needs to reconsider its criteria for applying Buy America requirements to manufactured products?
- Are there specific or general types of manufactured products that should not be covered by a public interest waiver and why?
- Are there specific issues that should be considered for manufactured products that include steel or iron components and subcomponents?

FHWA received 81 comments in response to the 2013 RFC. FHWA generally received supportive comments on the continued need for the Manufactured Products General Waiver. Many of the adverse comments FHWA received centered on a 2012 guidance memorandum on steel and iron manufactured products, which FHWA rescinded in December of 2015.[5] After considering the comments received on the 2013 RFC, FHWA decided to take no further action regarding the Manufactured Products General Waiver, and it remains in force today.

Compliance Standards for Manufactured Products

FHWA's Buy America statute at 23 U.S.C. 313(a) and Section 70914(a) of BABA both require that manufactured products used in federally assisted projects be produced in the United States. As described above, Section 70912(6)(B) of BABA additionally defines the term ''produced in the United States'' to mean that the manufactured product was manufactured in the United States and that the cost of the product's domestically produced components exceeds 55 percent of the total cost of all components. Section 313 of Title 23, however, does not provide a similar definition for the term ''produced in the United States,'' and FHWA has not promulgated such a definition for manufactured products through regulation.

FHWA also does not currently have a standard for determining the cost of components of a manufactured product. One such potential standard that could be considered for adoption by FHWA is the definition provided at 48 CFR 25.003 of the Federal Acquisition Regulations (FAR).

Another issue to consider is how the applicable standards for domestic content in manufactured products would apply to the steel and iron components of those products. Under FHWA's existing practice for iron and steel, Buy America requirements apply to any predominantly steel or iron component of a manufactured product regardless of the overall composition of the product.[6]

Request for Comments

Through this notice, FHWA is soliciting information and suggestions from the public and a broad array of stakeholders across public and private sectors regarding whether it should continue, discontinue, or modify, in whole or in part, the Manufactured Products General Waiver. FHWA is also soliciting information on other issues related to the application of Buy America requirements to manufactured products used in Federal-aid highway projects.

Questions on FHWA's General Waiver for Manufactured Products

In answering the questions below, please also explain the impacts of your suggested course of action for FHWA on administering and delivering Federal-aid highway projects and on supporting domestic manufacturing and jobs.

General Considerations

1. Does the justification that was used by FHWA in granting the General Waiver in 1983 still apply? Specifically, is FHWA's approach to the application of Buy America requirements to manufactured products still appropriate, considering the enactment of the BABA, and standards established therein?

2. What systems or processes do funding recipients, contractors, and manufacturers have to manage compliance with Buy America requirements?

3. With respect to domestic manufacturers of products procured using FHWA financial assistance, please provide information regarding the volume of products procured through FHWA financial assistance.

4. With respect to domestic manufacturers of products previously procured or expected to be procured using FHWA financial assistance, do you expect to expand your domestic manufacturing based on the increase in demand created by recent Federal investments? If so, by how much and over what time period? If applicable, what is the timeline to bring online additional capacity compliant with BABA?

5. Are there specific types of manufactured products that are widely used on Federal-aid highway projects for which a large portion of the components are known to not be produced in the United States or not produced in sufficient quantities? If so, what are those components, what manufacturer produces them, and where are they primarily produced? What are the obstacles to having those components produced in the United States? Please provide data to support your comment.

Compliance Standards for Manufactured Products

6. Should FHWA consider defining the term ''produced in the United States'' for manufactured products via rulemaking? If so, should it consider adopting the definition for the same term that is used in Section 70912(6)(B)

[4] The notice also sought comments regarding the continued need, in whole or in part, for the general waiver from Buy America for ferry boat equipment and for pig iron and processed, pelletized, and reduced iron ores. In addition, it sought comment on the continuing need for the FHWA's minimal use threshold.

[5] Rescission of the 2012 memorandum followed the decision in *United Steel, Paper and Forestry, Rubber, Mfr., Energy, Allied Indus. and Serv. Workers Int'l Union* v. *FHWA,* 151 F. Supp. 3d 76 (D.D.C. 2015).

[6] See *https://www.fhwa.dot.gov/programadmin/contracts/122297.cfm* and Question #12, at *https://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm.*

of BABA, as described above? Or should it consider adopting some other definition? Should the definition vary by product or product type? Should FHWA adopt the approach for determining ''cost of components'' of a manufactured product described by the Office of Federal Financial Management in the Office of Management and Budget in the notification of proposed guidance published on February 9, 2023 (88 FR 8374 (Feb. 8, 2023)), which is the same as is used in the FAR (48 CFR 25.003)?

7. With respect to domestic manufacturers of products previously procured or expected to be procured using FHWA financial assistance, are your products ''produced in the United States'' as defined by Section 70912(6)(B) of BABA? In other words, are your manufactured products manufactured in the United States and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product?

8. If FHWA were to adopt a definition for manufactured products produced in the U.S., should it consider also defining what it means for a manufactured product to be manufactured in the U.S.? If so, what manufacturing processes or assembly steps should be required to occur domestically? Should the requirement vary by product or product type?

9. Federal financial assistance from FHWA may support the procurement of ''rolling stock.'' For example, States and local governments may seek to purchase certain electric vehicles under the Congestion Mitigation and Air Quality Program.[7] Should FHWA establish any special provisions for applying Buy America requirements for manufactured products to ''rolling stock'' such as vehicles or wheeled equipment? If so, should FHWA consider applying requirements to rolling stock similar to those used by other Operating Administrations of the Department of Transportation, such as the Federal Transit Administration [8] or the Federal Railroad Administration? [9]

Manufactured Products With Steel and Iron Components

10. Are there specific issues that should be considered for manufactured products that include steel or iron components?

11. Should FHWA define the meaning of a ''predominantly'' steel and iron product? Why or why not? For example, could this help to distinguish between manufactured products and steel and iron products, for the purpose of applying Buy America requirements?

12. If FHWA adopts a definition for manufactured products produced in the U.S. similar to that used in Section 70912(6)(B) of BABA how should that definition be applied to predominantly iron or steel components of manufactured products?

Comment Period for Notice

FHWA will consider comments received in the 30-day comment period in determining whether to continue, discontinue, or modify the current Manufactured Products General Waiver, or to consider other actions related to the implementation of Buy America requirements for manufactured products. Comments received after this period will be considered to the extent practicable.

Issued in Washington, DC, under authority delegated in 49 CFR 1.85.

Shailen P. Bhatt,

Administrator, Federal Highway Administration.

[FR Doc. 2023–05498 Filed 3–16–23; 8:45 am]

BILLING CODE 4910–22–P

[7] *See* 23 U.S.C. 149(b)(8)(C).

[8] *See* 49 CFR 661.11.

[9] *See* 49 U.S.C. 22905(a)(2)(C) (allowing FRA to waive its Buy America requirements if it finds that rolling stock cannot be bought and delivered in the United States within a reasonable time).

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Final Federal Agency Actions on Proposed Rail Transportation Projects

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Railroad Administration (FRA) that are final for the Western Rail Yard Infrastructure Project, Livingston Avenue Bridge Replacement Project, and the Aberdeen Carolina & Western Railway Congestion Mitigation Project. The purpose of this notice is to advise the public of the time limit to file any claims that may challenge these decisions and other Federal permits, licenses, and approvals for the Projects.

DATES: A claim seeking judicial review of Federal agency actions for the listed rail transportation projects will be barred unless the claim is filed on or before March 17, 2025. If the Federal law that authorizes judicial review of a claim provides a time period of less than two years for filing such claim, then the shorter time period applies.

FOR FURTHER INFORMATION CONTACT: For further information related to this notice, please contact Pauline Munz, Attorney-Adviser, Office of the Chief Counsel, 1200 New Jersey Avenue SE, W31–228, Washington, DC 20590; telephone: 202–493–0558 or email: *pauline.munz@dot.gov.*

SUPPLEMENTARY INFORMATION: Notice is given that FRA has taken final agency action(s) by issuing certain approvals for the rail transportation project(s) listed below. The actions on the projects, as well as the laws under which such actions were taken, are described in the documentation issued for the projects to comply with the National Environmental Policy Act (NEPA) and related environmental laws.

This notice applies to all Federal agency decisions on the listed project(s) as of the issuance date of this notice and all Federal laws under which such actions were taken, including but not limited to, NEPA (42 U.S.C. 4321–4375); section 4(f) (49 U.S.C. 303); section 106 of the National Historic Preservation Act (54 U.S.C. 306108); the Clean Air Act (42 U.S.C. 7401–7671q); the Endangered Species Act (16 U.S.C. 1531–1544); the Clean Water Act (33 U.S.C. 1251) and relevant Executive Orders (E.O.) including, E.O. 11990 Protection of Wetlands, E.O. 11988 Floodplain Management, E.O. 13112 Invasive Species, E.O. Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations, and E.O. 13175 Consultation and Coordination with Indian Tribal Governments. This notice does not, however, alter or extend a shorter limitation period that may exist for challenges of project decisions covered by this notice. The projects that are the subject of this notice follow.

Project name and location: Western Rail Yard Infrastructure Project, New York, New York.

Project Summary: The project consists of construction and operation of: (1) a structural Platform (Platform); and (2) a railroad right-of-way preservation Tunnel Encasement (Tunnel Encasement). The project will be located on the 13-acre Western Rail Yard site, located on the western half of the Metropolitan Transportation Authority (MTA) Long Island Rail Road (LIRR) John D. Caemmerer Yard (aka ''Hudson Yards''). The approximately 9.8-acre Platform will span the Western Rail Yard and will include deep footings and a concrete slab to cover the active rail yard below, and reinforced building foundations. Platform construction also

includes the modernization of LIRR support services for the yard, including new life-safety systems. The Tunnel Encasement in the Western Rail Yard will start at the western edge of Eleventh Avenue and extend underground to the northern edge of 30th Street.

FRA issued the draft environmental impact statement (EIS) on June 11, 2021, and the public comment period occurred between June 11, 2021 and July 26, 2021. FRA issued a combined Final EIS and Record of Decision on November 22, 2021.

Project name and location: Livingston Avenue Bridge Replacement Project, Albany and Rensselaer Counties, New York.

Project Summary: The project consists of replacing the Livingston Avenue Bridge, which spans the Hudson River between the cities of Albany and Rensselaer. The bridge was constructed in 1901–1903 on a substructure that dates to the 1860s and is nearing the end of its serviceable life. The project will completely replace the existing two-track Livingston Avenue Bridge with a new two-track movable bridge located parallel to, and approximately 50 feet south of, the existing bridge. The project also includes a direct connection from the current shared-use path to the Albany Skyway at the western terminus of the new bridge as well as construction of a portion of the proposed Rensselaer Riverfront Multi-Use Trail.

FRA issued the Draft Environmental Assessment (EA) for the Project on May 9, 2022, and the public comment period occurred between May 9 and June 15, 2022. FRA issued a Finding of No Significant Impact (FONSI) on October 31, 2022.

Project Name and location: Aberdeen Carolina & Western Railway Congestion Mitigation Project, North Carolina.

Project Summary: The project consists of the construction of siding, new storage track spurs, and a warehouse on a 66-acre property located along Allen Station Road Mint Hill at the Mint Hill location; new siding at the Midland location in Cabarrus County; storage track spurs at the Aberdeen Carolina & Western Railway Headquarters in Candor, North Carolina; and double-ended passing and storage siding at the Samarcand and Eagle Springs location in Moore County. The purpose of the project is to address congestion issues on the existing railroad.

FRA issued the Draft EA on July 29, 2022, and the public comment period occurred between July 29 and August 31, 2022. FRA issued a FONSI on September 30, 2022.

Project name and location: Camp Hall Industrial Corridor Project, Berkeley County, South Carolina.

Project Summary: The project consists of construction of a 22.7-mile freight rail corridor from the Camp Hall Commerce Park in Berkeley County, South Carolina, traveling north and east to a connection with the CSX Transportation, Inc. (CSXT) rail network near the Santee Cooper Cross Generating Station in Pineville, South Carolina. The purpose of the project is to construct and operate an industrial rail line that will connect an existing Class I rail line with the Camp Hall Commerce Park. The need for the rail line derives from development in the Camp Hall Commerce Park increasing the demand for rail service connecting the park with an existing Class I rail network, in a manner that is logistically feasible. The rail line will better serve the needs of future park tenants and industry for transportation, distribution, and logistics. In addition, the rail line will support infrastructure needs in South Carolina and Berkeley County and will help alleviate highway congestion involving large commercial trucks.

The Surface Transportation Board's Office of Environmental Analysis (OEA) and U.S. Army Corps of Engineers (USACE) jointly issued the Draft EA on November 30, 2018, with FRA serving as a cooperating agency, and the public comment period occurred between November 30 and December 30, 2018. A Final EA was issued by OEA and USACE on April 30, 2019. FRA issued a FONSI on January 3, 2023.

Project name and location: Atlanta to Charlotte Passenger Rail Corridor Investment Plan (PRCIP).

Project Summary: The project consists of developing the Atlanta to Charlotte portion of the Southeast High Speed Rail (SEHSR) Corridor through the Atlanta to Charlotte Passenger Rail Corridor Investment Plan. The plan identifies the Greenfield Corridor as the route for further study and development. The Greenfield Corridor is a 274-mile route that connects Charlotte, NC (Charlotte Gateway Station) and Atlanta, GA (Hartsfield/Jackson Atlanta International Airport–H–JAIA) and generally follows a new dedicated alignment between the Charlotte airport and northeast Atlanta.

The purpose of the PRCIP is to help determine future transportation investments of vital importance to all people who live, work, and travel in the Atlanta to Charlotte corridor.

FRA issued the draft Tier I environmental impact statement (EIS) on September 20, 2019, and the public comment period occurred between September 20, 2019 and November 4, 2019. FRA issued a combined Final EIS and Record of Decision on June 30, 2021.

Project name and location: Walk Bridge Replacement Project, Norwalk, Connecticut.

Project Summary: The project consists of removing the existing railroad bridge structure and replacing it with two side-by-side 240-foot open-deck through truss vertical lift spans across the Norwalk River as well as other improvements within and outside the New Haven Line right-of-way (ROW) such as track and ballast replacement and construction of a new retaining wall. Each new bridge span would have separate mechanical and electrical equipment and controls so that each span can work independently of the other, or in unison as needed. Additionally, the Project involves improvements outside the railroad ROW in the vicinity of the existing bridge, including construction of a pedestrian/bicycle trail connection to the Norwalk River Valley Trail's Harbor Loop Trail in East Norwalk.

In August 2016, the Federal Transit Administration (FTA), prepared an EA for the project. FRA was a Cooperating Agency in the development of the EA. FRA approved its own FONSI for the Project on April 28, 2022.

Authority: 49 U.S.C. 24201(a)(4) and 23 U.S.C. 139(*l*)(1).

Issued in Washington, DC.

Marlys Ann Osterhues,

Director, Office of Environmental Program Management.

[FR Doc. 2023–05431 Filed 3–16–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request for Form 8453–R

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form

8453–R, *Electronic Filing Declaration for Form 8963.*

DATES: Written comments should be received on or before May 16, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–2253—Public Comment Request Notice'' in the Subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Electronic Filing Declaration for Form 8963.

OMB Number: 1545–2253.

Form Number: Form 8453–R.

Abstract: Form 8453–R is used to authenticate the electronic filing of Form 8963, *Report of Health Insurance Provider Information.* Form 8453–R must be filed with an electronically filed Form 8963.

Current Actions: There are no changes being made to this form at this time, however and adjustment to the estimated number of responses will result in a burden decrease of 243 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,400.

Estimated Time per Respondent: 1 hour, 37 minutes.

Estimated Total Annual Burden Hours: 3,888.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) 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; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 14, 2023.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2023–05484 Filed 3–16–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request for Form 8316

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 8316, *Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa.*

DATES: Written comments should be received on or before May 16, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–1862—Public Comment Request Notice'' in the Subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa.

OMB Number: 1545–1862.

Form Number: Form 8316.

Abstract: Certain foreign students and other nonresident visitors are exempt from FICA tax for services performed as specified in the Immigration and Naturalization Act. Applicants for refund of this FICA tax withheld by their employer must complete Form 8316 to verify that they are entitled to a refund of the FICA, that the employer has not paid back any part of the tax withheld, and that the taxpayer has attempted to secure a refund from his/her employer.

Current Actions: There are no changes being made to this form at this time, however and increase in the estimated number of responses will result in a burden increase of 625 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals and households.

Estimated Number of Respondents: 25,000.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 6,250.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) 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; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 13, 2023.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2023–05468 Filed 3–16–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0111]

Agency Information Collection Activity: Statement of Purchaser or Owner Assuming Seller's Loan

AGENCY: Veterans Benefits Administration; Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 16, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0111'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0111'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–21.

Title: Statement of Purchaser or Owner Assuming Seller's Loan, VA Form 26–6382.

OMB Control Number: 2900–0111.

Type of Review: Extension of a currently approved collection.

Abstract: Under title 38, U.S.C., section 3702, authorizes collection of this information to help determine the release of liability and substitution of entitlement. 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.

Affected Public: Individuals or households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 1,000.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–05467 Filed 3–16–23; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 88 Friday,
No. 52 March 17, 2023

Part II

The President

Executive Order 14092—Reducing Gun Violence and Making Our Communities Safer

Federal Register
Vol. 88, No. 52
Friday, March 17, 2023

Presidential Documents

Title 3—

The President

Executive Order 14092 of March 14, 2023

Reducing Gun Violence and Making Our Communities Safer

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. *Policy.* Every few days in the United States, we mourn a new mass shooting. Daily acts of gun violence—including community violence, domestic violence, suicide, and accidental shootings—may not always make the evening news, but they too cut lives short and leave survivors and their communities with long-lasting physical and mental wounds. We cannot accept these facts as the enduring reality of life in America. Instead, we must together insist that we have had enough, and that we will no longer allow the interests of the gun manufacturers to win out over the safety of our children and Nation.

It is the policy of my Administration that executive departments and agencies (agencies) will pursue every legally available and appropriate action to reduce gun violence. Through this whole-of-government approach, my Administration has made historic progress to save lives. My Administration has taken action to keep guns out of dangerous hands and especially dangerous weapons off of our streets; hold gun traffickers and rogue gun dealers accountable; fund accountable, effective community policing; and invest in community violence interventions and prevention strategies.

Last year, I signed into law the Bipartisan Safer Communities Act (the ''Act''), the most significant bipartisan gun safety legislation in nearly 30 years. The Act provides communities with new tools to combat gun violence, including enhanced gun background checks for individuals under age 21, funding for extreme risk protection orders and other crisis interventions, and increased mental health resources to help children impacted by gun violence heal from the resulting grief and trauma.

I continue to call on the Congress to take additional action to reduce gun violence, including by banning assault weapons and high-capacity magazines, requiring background checks for all gun sales, requiring safe storage of firearms, funding my comprehensive Safer America Plan, and expanding community violence intervention and prevention strategies. In the meantime, my Administration will continue to do all that we can, within existing authority, to make our communities safer.

Sec. 2. *Implementation of the Bipartisan Safer Communities Act.* The Attorney General, the Secretary of Health and Human Services, the Secretary of Education, and the Secretary of Homeland Security shall each submit a report to the President within 60 days of the date of this order describing what actions their respective agencies have taken to implement the Act, data and analysis regarding the use and early effects of the Act, and additional steps their respective agencies will take to maximize the benefits of the Act. These reports shall include a plan for increasing public awareness and use of resources made available by the Act.

Sec. 3. *Additional Agency Actions to Reduce Gun Violence.* (a) The Attorney General shall develop and implement a plan to:

(i) clarify the definition of who is engaged in the business of dealing in firearms, and thus required to become Federal firearms licensees (FFLs),

in order to increase compliance with the Federal background check requirement for firearm sales, including by considering a rulemaking, as appropriate and consistent with applicable law;

(ii) prevent former FFLs whose licenses have been revoked or surrendered from continuing to engage in the business of dealing in firearms;

(iii) publicly release, to the fullest extent permissible by law, inspection reports of FFL dealers cited for violations of the law; and

(iv) support efforts to modernize and make permanent the Undetectable Firearms Act (18 U.S.C. 922(p)).

(b) The Secretary of Defense; the Attorney General; the Secretary of Homeland Security; the Secretary of Health and Human Services, including through the Surgeon General of the United States; the Secretary of Education; and the Secretary of Veterans Affairs shall expand existing Federal campaigns and other efforts to promote safe storage of firearms.

(c) The Secretary of Defense; the Attorney General; the Secretary of Homeland Security; the Secretary of Health and Human Services, including through the Surgeon General of the United States; and the Secretary of Education shall undertake efforts to encourage effective use of extreme risk protection orders (''red flag'' laws), partnering with law enforcement, health care providers, educators, and other community leaders.

(d) The Attorney General; the Secretary of Health and Human Services, including through the Surgeon General of the United States; the Secretary of Education; the Secretary of Homeland Security; the Director of the Office of Management and Budget; and the heads of other agencies, as appropriate, shall develop a proposal for the President, and submit it no later than September 15, 2023, on how the Federal Government can better support the recovery, mental health, and other needs of survivors of gun violence, families of victims and survivors of gun violence, first responders to incidents of gun violence, and communities affected by gun violence. The proposal should draw on existing evidence, where available, and take into account how to address needs in both the immediate aftermath of mass shootings and in the years following such events. The proposal should recommend any additional executive branch coordination and additional resources or authorities from the Congress needed to implement the proposal, as well as how agencies will assess the outcomes for the activities implemented.

(e) The Secretary of Defense, in consultation with the Attorney General and the Secretary of Homeland Security, shall develop and implement principles to further firearm and public safety practices through the Department of Defense's acquisition of firearms, consistent with applicable law.

(f) The heads of Federal law enforcement agencies shall, as soon as practicable, but no later than 180 days from the date of this order, ensure that their respective law enforcement components issue National Integrated Ballistic Information Network (NIBIN) submission and utilization policies with requirements that are equivalent to, or exceed, the requirements of the policy issued by the Department of Justice on December 12, 2022, to ensure the prompt entry of ballistics data recovered in connection with criminal investigations into NIBIN. In consultation with the Department of Justice, the Department of Defense policies may be tailored to address specific operational considerations.

(g) The Secretary of Transportation, in consultation with the Department of Justice, shall work to reduce the loss or theft of firearms during shipment between FFLs and to improve reporting of such losses or thefts, including by engaging with carriers and shippers.

(h) The Federal Trade Commission is encouraged to issue a public report analyzing how gun manufacturers market firearms to minors and how such manufacturers market firearms to civilians, including through the use of military imagery.

Sec. 4. *Definitions.* For purposes of this order, the term ''Federal law enforcement agency'' means an organizational unit or subunit of the executive branch that employs officers who are authorized to make arrests and carry firearms, and that is responsible for the prevention, detection, and investigation of crime or the apprehension of alleged offenders. The term ''heads of Federal law enforcement agencies'' means the heads of those units or subunits.

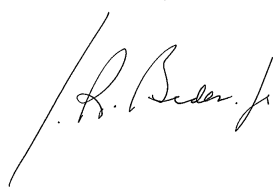
Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
March 14, 2023.

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