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Presidential Documents

Title 3—

The President

Proclamation 10709 of March 8, 2024

U.S. Hostage and Wrongful Detainee Day, 2024

By the President of the United States of America

A Proclamation

Today—and every day—the United States reaffirms our sacred pledge to American hostages and detainees wrongfully held abroad: We see you. We stand with you. We will not stop working until you are home and reunited with your family.

This has been a priority for my Administration since day one—and we have made important progress. Over the last 3 years, we have brought home more than 60 Americans being held hostage or wrongfully detained around the world, including from Afghanistan, Burma, Gaza, Haiti, Iran, Russia, Rwanda, Venezuela, West Africa, and more. But we have much more work to do. Too many Americans remain illegally and wrongfully detained, fearing for their lives and not knowing what tomorrow will bring. Too many families remain ripped apart, living in agony and uncertainty every day their loved one remains wrongfully held abroad. No family—and no American—should have to endure this suffering and separation.

That is why my Administration has taken unprecedented action to secure the release of all Americans held hostage or wrongfully detained abroad. In 2022, I signed an Executive Order to strengthen our efforts to address the scourge of hostage-taking and wrongful detention, including issuing more severe consequences for actors that illegally detain American citizens and attempt to use human beings as bargaining chips. Last year, we issued the first-ever sanctions against actors—including in Russia and Iran—for engaging in this abhorrent practice. My Administration has also focused on preventing these cases from occurring in the first place. We have joined 74 nations around the world and the European Union in endorsing the Declaration Against Arbitrary Detention. Finally, we have focused on providing families with loved ones held hostage or wrongfully detained abroad with the resources and support services they deserve.

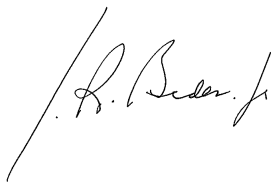
Here at home, the Department of State launched a risk indictor that warns travelers if there is a high threat of wrongful detention at their destination. For more information on travel advisories, go to travel.state.gov.

As President, I have no higher duty than ensuring the safety and security of my fellow Americans—including all those who remain held hostage or wrongfully detained abroad. I will continue to work to bring them home. I will continue to leverage every resource to punish and deter actors who engage in this despicable and unacceptable practice. I will not stop these efforts until every American is accounted for and safely back home. Today—and every day—that is my pledge.

The Congress, by Public Law 118–31 approved December 22, 2023, has designated March 9 of each year as ''U.S. Hostage and Wrongful Detainee Day.''

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim March 9, 2024, as U.S. Hostage and Wrongful Detainee Day. On this day, as we fly the Hostage and Wrongful Detainee flag at the White House, I call upon the people of the United States to observe this day with relevant programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of March, in the year of our Lord two thousand twenty-four, and of the Independence of the United States of America the two hundred and forty-eighth.



[FR Doc. 2024–05441
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Rules and Regulations

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SMALL BUSINESS ADMINISTRATION

13 CFR Parts 107 and 121

SBA Reinvestor (''Fund-of-Funds'') Small Business Investment Company (SBIC) License Educational Public Webinar

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notification of public webinar.

SUMMARY: The SBA is holding a webinar to educate the public on the new Reinvestor SBIC License introduced to the market as part of the *SBIC Investment Diversification and Growth Final Rule* that went into effect on August 17, 2023.

DATES: The public webinar will be held on Friday, March 22, 2024, from 1 p.m. to 2 p.m. Eastern Time.

ADDRESSES: Information about applying for and managing a Reinvestor (''fund-of-funds'') SBIC License. The Webinar will be live streamed on Microsoft Teams for the public.

FOR FURTHER INFORMATION CONTACT: The meeting will be live streamed to the public, and anyone wishing to attend or needing accommodations because of a disability can contact Gretchen Kittel, SBA, Office of Investment & Innovation (OII), (202) 578–5502, *investinnovate@sba.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 17, 2023, the U.S. Small Business Administration (''SBA'') implemented new regulations for the Small Business Investment Company (''SBIC'') program as part of the SBIC Investment Diversification and Growth rulemaking. The new regulations significantly reduce barriers to program participation for new SBIC fund managers and funds investing in underserved communities and geographies, capital intensive investments, and technologies critical to national security and economic development. The proposed rule introduced two additional types of SBIC Licensees, Reinvestor SBICs and Accrual SBICs, to increase program investment diversification and equity-oriented financing for American small businesses and innovative startups. Reinvestor SBICs expand SBA's network of emerging fund managers, micro-funds, and funds addressing underserved communities and geographies and undercapitalized industries.

II. Questions

For the public webinar, OII strongly encourages questions be submitted in advance by March 20, 2024. Individuals may email *investinnovate@sba.gov* with subject line—''[Name/Organization] Question for 03/22/24 Public Webinar.'' During the live event, attendees will be in listen-only mode and may submit additional questions via the Q&A Chat feature.

III. Information on Service for Individuals With Disabilities

For information on services for individuals with disabilities or to request special assistance, contact Gretchen Kittel at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Bailey DeVries,

Associate Administrator, Office of Investment & Innovation, U.S. Small Business Administration.

[FR Doc. 2024–05266 Filed 3–12–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2023–2435; Special Conditions No. 25–862–SC]

Special Conditions: Gulfstream Aerospace Corporation Model GVIII–G700 and GVIII–G800 Series Airplanes; Dynamic Test Requirements for Single- and Multiple-Occupant Side-Facing Seats With or Without Airbag Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Gulfstream Aerospace Corporation (Gulfstream) Model GVIII–G700 and GVIII–G800 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is side-facing seats oriented in the aircraft with the occupant facing 90 degrees to the direction of aircraft travel. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Effective March 13, 2024.

FOR FURTHER INFORMATION CONTACT: Myra Kuck, Cabin Safety, AIR–624, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, Aircraft Certification Policy and Standards, 3960 Paramount Blvd., Suite 100, Lakewood, CA 90712; telephone and fax 405–666–1059; email *Myra.J.Kuck@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On December 31, 2019, Gulfstream applied for an amendment to Type Certificate No. T00015AT to include the new Model GVIII–G700 and GVIII–G800 series airplanes. These airplanes, which will be derivatives of the Model GVI currently approved under Type Certificate No. T00015AT, are twin-engine, transport-category airplanes, with seating for 19 passengers, and a maximum take-off weight of 107,600 pounds (GVIII–G700) and 105,600 pounds (GVIII–G800).

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Gulfstream must show that the Model GVIII–G700 and GVIII–G800 series airplanes meet the applicable provisions of the regulations listed in Type Certificate No. T00015AT, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes must comply with the exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with 14 CFR 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Feature

The Gulfstream Model GVIII–G700 and GVIII–G800 airplanes will incorporate the following novel or unusual design feature:

Side-facing seats, oriented in the aircraft with the occupant facing 90 degrees to the direction of aircraft travel, with or without incorporation of an airbag systems or inflatables.

Discussion

On June 16, 1988, 14 CFR part 25 was amended to revise the emergency landing conditions that must be considered in the design of transport category airplanes. This amendment (25–64) revised the static load conditions in § 25.561 and added a new § 25.562 that required dynamic testing for all seats approved for occupancy during takeoff and landing. The intent of Amendment 25–64 was to provide an improved level of safety for occupants on transport category airplanes; however, because most seating on transport category airplanes is forward-facing, the pass/fail criteria developed in Amendment 25–64 focused primarily on these seats.

Prior to 2012, the FAA granted exemptions [1] for the multiple-place side-facing-seat installations because the existing test methods and acceptance criteria did not produce a level of safety equivalent to the level of safety provided for forward-and aft-facing seats. These exemptions were subject to many conditions that reflected the injury-evaluation criteria and mitigation strategies available at the time of the exemption issuance. The FAA also issued special conditions to address single-place side-facing seats because it determined, at the time, that those conditions provided the same level of safety as for forward- and aft-facing seats.

Due to the novelty of side-facing seats in transport category airplanes, acceptable safety measures for § 25.562 were unknown. The FAA conducted research to develop an acceptable method of compliance with §§ 25.562 and 25.785(b) for side-facing seat installations. That research has identified injury considerations and evaluation criteria in addition to those previously used to approve side-facing seats (see published report DOT/FAA/AR–09/41, July 2011 [2]). One particular concern that was identified during the FAA's research program but not addressed in special conditions prior to 2012 was the significant leg injuries that can occur to occupants of both single- and multiple-place side-facing seats. Because this type of injury does not occur on forward- and aft-facing seats, the FAA determined that to achieve the level of safety envisioned in Amendment 25–64, additional requirements would be needed as compared to previously issued special conditions. Nonetheless, the research has now allowed the development of a single set of special conditions that is applicable to all fully side-facing seats.

On November 5, 2012, the FAA released PS–ANM–25–03–R1, ''Technical Criteria for Approving Side-Facing Seats,'' to update existing FAA certification policy on §§ 25.562 and 25.785(a) and (b) at Amendment 25–64 for single- and multiple-place side-facing seats. This policy addressed both the technical criteria for approving side-facing seats and the implementation of those criteria. The FAA methodology detailed in PS–ANM–25–03–R1 has been used to develop these special conditions. Some of the conditions issued for previous exemptions are still relevant and are included in these special conditions; however, others have been replaced by different criteria that reflect current research findings described above, as well as design features from the Gulfstream GVII model side-facing seat design.

The special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

The FAA issued Notice of Proposed Special Conditions No. 25–23–07–SC for the Gulfstream Model GVIII–G700 and GVIII–G800 airplanes, which was published in the **Federal Register** on February 1, 2024 (89 FR 6443).

The FAA received responses from two anonymous commenters. One commenter stated that they support the special conditions as proposed. The second commenter requested the FAA make the following changes to the proposed special conditions:

1. The commenter requested the FAA replace the term ''airbag'' with ''automatically deploying safety system.'' The commenter stated that it should be clear that the installation of a different kind of automatically deploying safety system would necessitate the issuance of a new special condition. The FAA acknowledges that the current automatically-deploying safety systems proposed by applicants are airbag systems. If in the future the technology proposed by applicants should change, then there may be need for another special condition. No changes were made to these special conditions as a result of this comment.

2. The commenter stated that the proposed special conditions paragraph 1.e(1)(b) may cause confusion, in that the word ''bottom'' is singular and the word ''feet'' is plural. This wording, according to the commenter, could lead to an interpretation that the force of about 20 pounds (lbs) may be applied to each foot, plus it is not specified that the force be applied uniformly. The commenter also suggested a specific revision to the text of this paragraph to address these concerns. The FAA disagrees that there is ambiguity or that a change is necessary. The 20 lbs of force is the total force applied to the bottom of the feet. The text of the special condition is similar to the language of FAA Policy Statement PS–ANM–25–03–R1 ''Technical Criteria for Approving Side-Facing Seats.'' No changes were made to these special conditions as a result of this comment.

3. The commenter suggested several changes to the formatting and technical

[1] *See, generally,* Exemption Nos. 7120C, 7878A, and 9900.

[2] Document available at *https://www.tc.faa.gov/its/worldpac/techrpt/ar09-41.pdf.*

content of paragraph 2.g. of the special conditions. The commenter suggested adding a colon at the end of paragraph g., and that subsequent special conditions should be numbered below that paragraph. The commenter also stated that paragraph 2.g. does not explicitly state when lap belt tension must be limited to 250 lbs, and that the rationale for the limit in the Civil Aerospace Medical Institute (CAMI) report does not have to be specified in the proposed special conditions. The commenter further stated that paragraph 2.g. has a typographical error in that data should be filtered at ''CFC 600'' as defined in SAE JS211–1 ''Surface Vehicle Recommended Practice.'' The FAA agrees with most of the comments received on paragraph 2.g. The FAA has revised the formatting of paragraph 2.g. to reflect the requirements clearly. The FAA does not concur with the commenter that the data should be filtered at CFC 600 versus 60. Sixty is the correct value for belt loads in SAE JS211–1.

4. The commenter made two comments regarding paragraph 4.a. of these special conditions. The commenter suggested the FAA revise the phrase ''that range of occupants'' because it is missing explanation as to which range of occupants is being referred to. The FAA disagrees. The range of occupants is provided in Paragraph 3.b. Paragraph 3. states that ''For all airbag systems in the shoulder harness and for leg flail the following apply'' . . . Paragraph b. states that the means of protection must take into consideration a range of stature from a 2-year-old child to a 95th percentile male.

The commenter further stated that in paragraph 4.a., the situations that must be considered do not account for the possibility that the seat occupant is a child in a child restraint device or booster seat. The FAA disagrees. Booster seats are not allowed. If a child restraint device is installed, the installation must show it would not harm the occupant, otherwise an operating limitation would need to limit to no child restraint device per condition 4.b. No changes were made to these special conditions as a result of this comment.

Except as discussed above, the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes. Should Gulfstream apply at a later date for a change to the type certificate to include another model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would apply to the other model as well.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**. However, as the certification date for the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes is imminent, the FAA finds that good cause exists to make these special conditions effective upon publication.

Conclusion

This action affects only a certain novel or unusual design feature on Gulfstream Model GVIII–G700 and GVIII–G800 series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes.

In addition to the airworthiness standards in §§ 25.562 and 25.785, the FAA issues the following special conditions as part of the type certification basis for the Gulfstream Model GVIII–G700 and GVIII–G800 series aircraft. Items 1 through 3 are applicable to all side-facing seat installations on these airplanes. Item 4 imposes additional requirements applicable to side-facing seats equipped with an airbag system in the shoulder belt. Item 5 imposes additional requirements applicable to side-facing seats equipped with leg-flail airbag systems.

1. Additional requirements applicable to tests or rational analysis conducted to show compliance with §§ 25.562 and 25.785 for side-facing seats:

a. The longitudinal test(s) conducted in accordance with § 25.562(b)(2) to show compliance with the seat-strength requirements of § 25.562(c)(7) and (8), and these special conditions must have an ES–2re anthropomorphic test dummy (ATD) (49 CFR part 572 subpart U) or equivalent, or a Hybrid–II ATD (49 CFR part 572, subpart B as specified in § 25.562) or equivalent, occupying each seat position and including all items contactable by the occupant (*e.g.,* armrest, interior wall, or furnishing) if those items are necessary to restrain the occupant. If included, the floor representation and contactable items must be located such that their relative position, with respect to the center of the nearest seat place, is the same at the start of the test as before floor misalignment is applied. For example, if floor misalignment rotates the centerline of the seat place nearest the contactable item 8 degrees clockwise about the aircraft x-axis, then the item and floor representations must be rotated by 8 degrees clockwise also to maintain the same relative position to the seat place, as shown in Figure 1. Each ATD's relative position to the seat after application of floor misalignment must be the same as before misalignment is applied. The ATD pelvis must remain supported by the seat pan, and the restraint system must remain on the pelvis and shoulder of the ATD until rebound begins. No injury-criteria evaluation is necessary for tests conducted only to assess seat-strength requirements.

b. The longitudinal test(s) conducted in accordance with § 25.562(b)(2), to show compliance with the injury assessments required by § 25.562(c) and these special conditions, may be conducted separately from the test(s) to show structural integrity. Structural-assessment tests must be conducted as specified in paragraph 1.a., above, and the injury-assessment test must be conducted without yaw or floor misalignment. Injury assessments may be accomplished by testing with ES–2re ATD (49 CFR part 572 subpart U) or equivalent at all places. Alternatively, these assessments may be accomplished by multiple tests that use an ES–2re at the seat place being evaluated, and a Hybrid–II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent used in all seat places forward of the one being assessed, to evaluate occupant interaction. Seat places aft of the one being assessed may be unoccupied. If a seat installation includes adjacent items that are contactable by the occupant, the injury potential of that contact must be assessed. To make this assessment, tests may be conducted that include the actual item, located, and attached in a representative fashion. Alternatively, the injury potential may be assessed by a combination of tests with items having

the same geometry as the actual item, but having stiffness characteristics that would create the worst case for injury (injuries due to both contact with the item and lack of support from the item).

c. If a seat is installed aft of structure (*e.g.,* an interior wall or furnishing) that does not have a homogeneous surface contactable by the occupant, additional analysis and/or test(s) may be required to demonstrate that the injury criteria are met for the area which an occupant could contact. For example, different yaw angles could result in different injury considerations and may require additional analysis or separate test(s) to evaluate.

d. To accommodate a range of occupant heights (5th percentile female to 95th percentile male), the surface of items contactable by the occupant must be homogenous 7.3 inches (185 mm) above and 7.9 inches (200 mm) below the point (center of area) that is contacted by the 50th percentile male size ATD's head during the longitudinal test(s) conducted in accordance with paragraphs a, b, and c, above. Otherwise, additional head-injury criteria (HIC) assessment tests may be necessary. Any surface (inflatable or otherwise) that provides support for the occupant of any seat place must provide that support in a consistent manner regardless of occupant stature. For example, if an inflatable shoulder belt is used to mitigate injury risk, then it must be demonstrated by inspection to bear against the range of occupants in a similar manner before and after inflation. Likewise, the means of limiting lower-leg flail must be demonstrated by inspection to provide protection for the range of occupants in a similar manner.

e. For longitudinal test(s) conducted in accordance with § 25.562(b)(2) and these special conditions, the ATDs must be positioned, clothed, and have lateral instrumentation configured as follows:

(1) *ATD positioning:*

Lower the ATD vertically into the seat while simultaneously (see Figure 2 for illustration):

(a) Aligning the midsagittal plane (a vertical plane through the midline of the body; dividing the body into right and left halves) with approximately the middle of the seat place.

(b) Applying a horizontal x-axis direction (in the ATD coordinate system) force of about 20 pounds (lbs) (89 Newtons [N]) to the bottom of the feet of the ATD with the legs straight, to compress the seat back cushion.

(c) Keeping the legs nearly horizontal by supporting them just behind the ankles.

(d) Once all lifting devices have been removed from the ATD:

(i) Rock it slightly to settle it in the seat.

(ii) Gently lower the ankles of the ATD bending the legs at the knee joints. Do not allow the pelvis of the ATD to be moved when the lower legs are lowered. The seat back cushion must remain compressed. Separate the knees by about 4 inches (100 mm).

(iii) Set the ES–2re's head at approximately the midpoint of the available range of z-axis rotation (to align the head and torso midsagittal planes).

(iv) Position the ES–2re's arms at the joint's mechanical detent that puts them at approximately a 40-degree angle with respect to the torso. Position the Hybrid-II ATD hands on top of its upper legs.

(v) Position the feet such that the centerlines of the lower legs are approximately parallel to a lateral vertical plane (in the aircraft coordinate system).

(2) *ATD clothing:* Clothe each ATD in form-fitting, mid-calf-length (minimum) pants and shoes (size 11E) weighing about 2.5 lb (1.1 Kg) total. The color of the clothing should be in contrast to the color of the restraint system. The ES–2re jacket is sufficient for torso clothing, although a form-fitting shirt may be used in addition if desired.

(3) *ES–2re ATD lateral instrumentation:* The rib-module linear slides are directional, *i.e.,* deflection occurs in either a positive or negative ATD y-axis direction. The modules must be installed such that the moving end of the rib module is toward the front of the aircraft. The three abdominal-force sensors must be installed such that they are on the side of the ATD toward the front of the aircraft.

f. The combined horizontal/vertical test, required by § 25.562(b)(1) and these special conditions, must be conducted with a Hybrid II ATD (49 CFR part 572 subpart B as specified in § 25.562), or equivalent, occupying each seat position.

g. *Restraint systems:*

(1) If inflatable restraint systems are used, they must be active during all dynamic tests conducted to show compliance with § 25.562.

(2) The design and installation of seat-belt buckles must prevent unbuckling due to applied inertial forces or impact of the hands/arms of the occupant during an emergency landing.

2. Additional performance measures applicable to tests and rational analysis conducted to show compliance with §§ 25.562 and 25.785 for side-facing seats:

a. *Body-to-body contact:* Contact between the head, pelvis, torso, or shoulder area of one ATD with the adjacent-seated ATD's head, pelvis, torso, or shoulder area is not allowed. Contact during rebound is allowed.

b. *Thoracic:* The deflection of any of the ES–2re ATD upper, middle, and lower ribs must not exceed 1.73 inches (44 mm). Data must be processed as defined in Federal Motor Vehicle Safety Standards (FMVSS) 571.214.

c. *Abdominal:* The sum of the measured ES–2re ATD front, middle, and rear abdominal forces must not exceed 562 lbs (2,500 N). Data must be processed as defined in FMVSS 571.214.

d. *Pelvic:* The pubic symphysis force measured by the ES–2re ATD must not exceed 1,350 lbs (6,000 N). Data must be processed as defined in FMVSS 571.214.

e. *Leg:* Axial rotation of the upper-leg (femur) must be limited to 35 degrees in either direction from the nominal seated position.

f. *Neck:* As measured by the ES–2re ATD and filtered at CFC 600 as defined in SAE J211:

(1) The upper-neck tension force at the occipital condyle (O.C.) location must be less than 405 lb (1,800 N).

(2) The upper-neck compression force at the O.C. location must be less than 405 lb (1,800 N).

(3) The upper-neck bending torque about the ATD x-axis at the O.C. location must be less than 1,018 in-lb (115 Nm).

(4) The upper-neck resultant shear force at the O.C. location must be less than 186 lb (825 N).

g. *Occupant (ES–2re ATD) retention:* The upper-torso restraint straps (if present) must remain on the ATD's shoulder during the impact. The pelvic restraint must remain on the ES–2re ATD's pelvis during the impact. The pelvic restraint must remain on the ES–2re ATD's pelvis during rebound unless the following criteria are met.

(1) A measurement of the belt loop load during the time when the belt moves above the pelvis (submarining) must not exceed 500 lbs (2,225 N) *(a 250 lb (1112.5 N) lap belt tension limit).* Data must be filtered at CFC 60 as defined in SAE J211. To evaluate the pelvic restraint performance using this criterion, three things are needed:

(a) A clear indication of when the belt moves above the pelvis. Loose clothing can make it difficult to determine where the top of the pelvis is, and in turn make it hard to discern exactly when the belt moved above it. This can be improved by marking the top of the pelvis clearly and by positioning the cameras so that

the position of the belt, relative to the top of the pelvis can be observed throughout the test (see Figure 3).

(b) A measurement of the belt tension during the time when the belt moves above the pelvis. Place the webbing transducer to measure the total tension in the forward lap belt segment. If a split (combined body-centered and conventional) leading belt is used, measure the tension in the common section so that it reflects the contribution of each segment. Since this placement typically produces contact between the ATD and the transducer, it is important to use a webbing transducer that is not sensitive to contact.

(c) Record useful video and belt load data until significant ATD rebound motion stops. Extra recording time is necessary because submarining usually occurs later in the test than other injury criteria maximums. To completely capture ATD rebound, the necessary time could exceed 500 ms.

h. *Occupant (ES–2re ATD) support:*

(1) *Pelvis excursion:* The load-bearing portion of the bottom of the ATD pelvis must not translate beyond the edges of its seat's bottom seat-cushion supporting structure.

(2) *Upper-torso support:* The lateral flexion of the ATD torso must not exceed 40 degrees from the normal upright position during the impact.

3. For all airbag systems in the shoulder harness and for leg flail, the following apply:

a. Show that the airbag system will deploy and provide protection under crash conditions where it is necessary to prevent serious injury.

b. The means of protection must take into consideration a range of stature from a 2-year-old child to a 95th percentile male.

c. The airbag system must provide adequate protection for each occupant regardless of the number of occupants of the seat assembly, considering that unoccupied seats may have an active airbag system.

d. It must be shown that the airbag system is not susceptible to inadvertent deployment as a result of wear and tear, or inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings), and other operating and environmental conditions (vibrations, moisture, etc.) likely to occur in service.

e. Deployment of the airbag system must not introduce injury mechanisms to the seated occupant, or result in injuries that could impede rapid egress. This assessment should include an occupant whose seat belt is loosely fastened.

f. It must be shown that inadvertent deployment of the airbag system, during the most critical part of the flight, will either meet the requirement of § 25.1309(b) or not cause a hazard to the airplane or its occupants.

g. It must be shown that the airbag system will not impede rapid egress of occupants 10 seconds after airbag deployment.

h. The airbag system must be protected from lightning and high-intensity radiated fields (HIRF). The threats to the airplane specified in existing regulations regarding lighting, § 25.1316, and HIRF, § 25.1317, are adopted by reference for the purpose of measuring lightning and HIRF protection.

i. The airbag system must function properly after loss of normal aircraft electrical power, and after a transverse separation of the fuselage at the most critical location. A separation at the location of the airbag system does not have to be considered.

j. It must be shown that the airbag system will not release hazardous quantities of gas or particulate matter into the cabin.

k. The airbag system installation must be protected from the effects of fire such that no hazard to occupants will result.

l. A means must be available for a crewmember to verify the integrity of the airbag system prior to each flight, or it must be demonstrated to reliably operate between inspection intervals. The FAA considers that the loss of the airbag-system deployment function alone (*i.e.,* independent of the conditional event that requires the airbag-system deployment) is a major-failure condition.

m. The inflatable material may not have an average burn rate of greater than 2.5 inches/minute when tested using the horizontal flammability test defined in part 25, appendix F, part I, paragraph (b)(5).

n. The airbag system, once deployed, must not adversely affect the emergency-lighting system (*i.e.,* block floor proximity lights to the extent that the lights no longer meet their intended function).

o. The airbag system must perform its intended function after impact from other proximate assemblies (*e.g.,* life raft) that may become detached under the loads specified in §§ 25.561 and 25.562.

4. For seats with an airbag system in the shoulder belts, the following apply:

a. The airbag system in the shoulder belt must provide a consistent approach to energy absorption throughout that range of occupants. The airbag system must be included in each of the certification tests as it would be installed in the airplane. In addition, the following situations must be considered:

(1) The seat occupant is holding an infant.

(2) The seat occupant is a pregnant woman.

b. The design must prevent the airbag system in the shoulder belt from being either incorrectly buckled or incorrectly installed, such that the airbag system in the shoulder belt would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant, and will provide the required injury protection.

5. For seats using an airbag system to meet the leg-flail conditions of 2.e. the following apply:

a. At some buttock popliteal length and effective seat bottom depth the lower legs will not be able to make a 90-degree angle with the upper leg; at this point the lower leg flail would not occur. The leg flail airbag system must provide a consistent approach to prevention of leg flail throughout that range of occupants whose lower legs can make a 90-degree angle with the upper legs when seated upright in the seat. Items that need to be considered include, but are not limited to the range of occupants' popliteal height, the range of occupants' buttock popliteal length, the design of the seat effective height above the floor, and the effective depth of the seat bottom cushion.

b. For all g-levels, if the design of the leg flail limited device does absorb some of the impact energy and returns only a portion to the legs (a qualitative assessment), then a rebound leg flail of greater than 35 degrees is acceptable.

c. Threshold test severity must be shown to be non-injurious (less than the post-mortem human subject (PMHS) low-g research testing) for g-levels up to the point where the leg flail airbag is designed to deploy.

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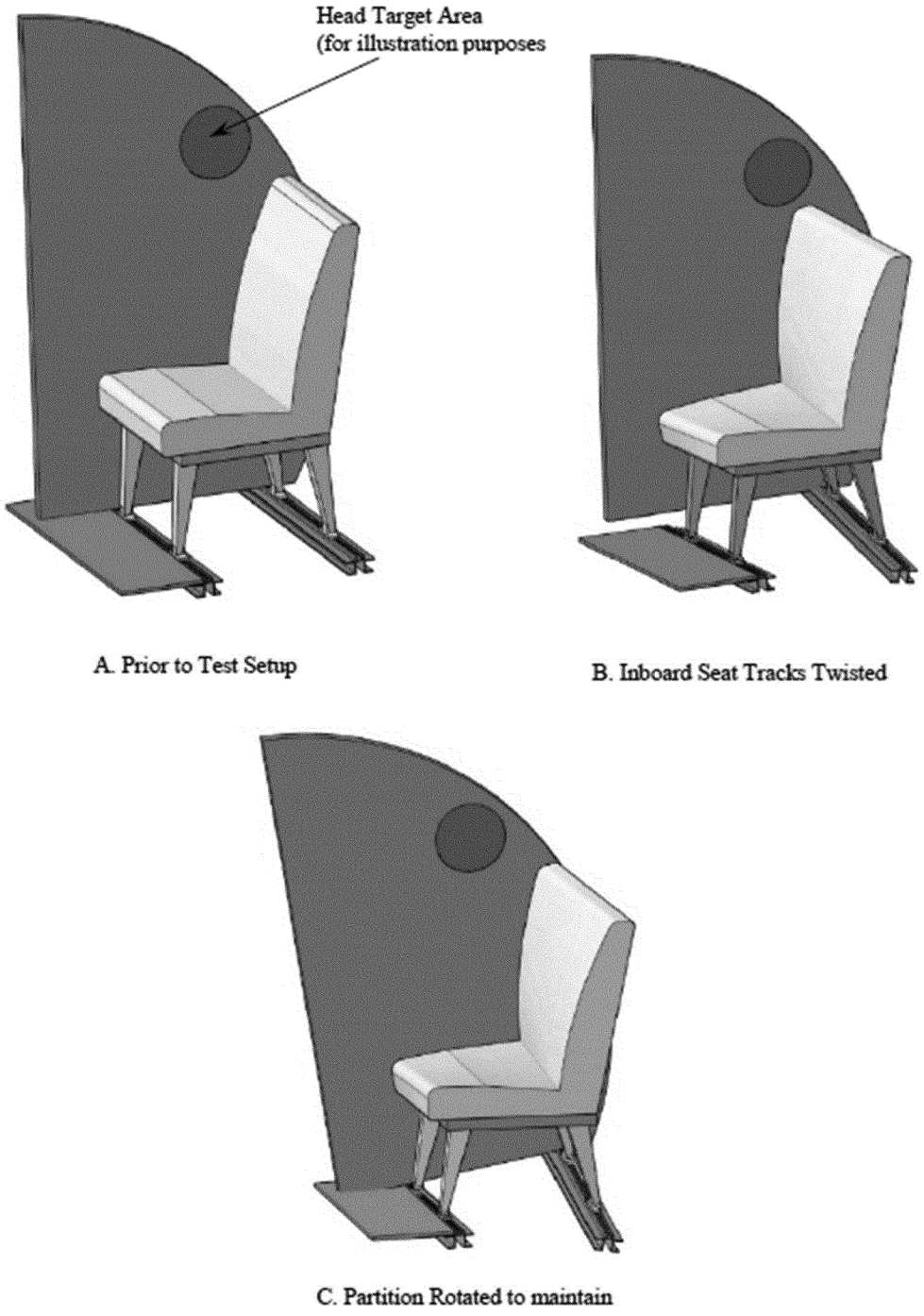
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(for illustration purposes
A. Prior to Test Setup
B. Inboard Seat Tracks Twisted
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Figure 1

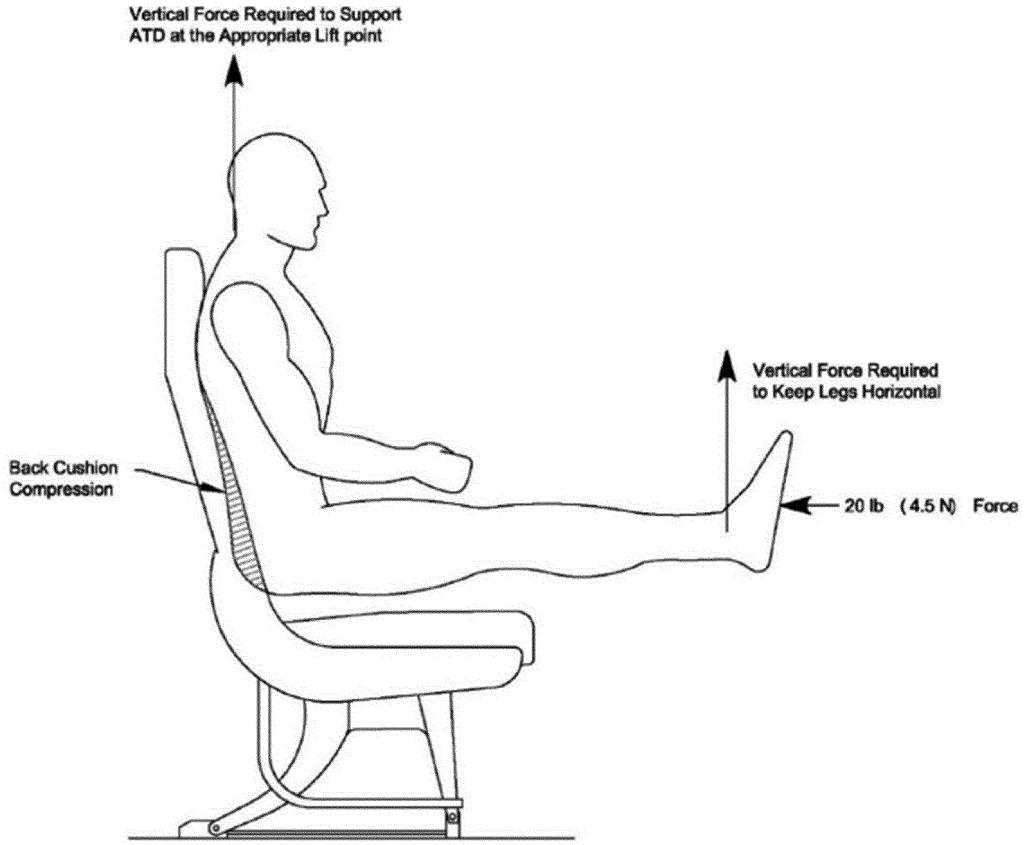

Figure 2

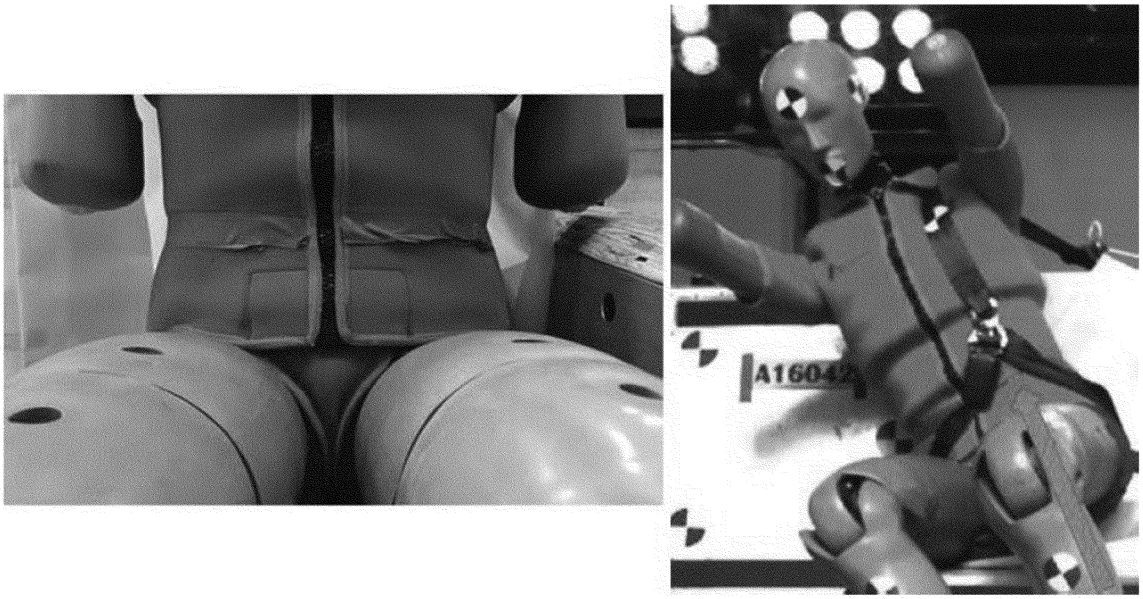

Figure 3

Issued in Kansas City, Missouri, on March 6, 2024.

James David Foltz,

Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2024–05226 Filed 3–12–24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2149; Project Identifier MCAI–2023–00136–E; Amendment 39–22675; AD 2024–03–05]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. (Type Certificate Previously Held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2022–13–16 for all GE Aviation Czech s.r.o. (GEAC) (type certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) Model M601D–11 engines; and AD 2022–14–12, for certain GEAC Model M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F engines. AD 2022–13–16 required revising the airworthiness limitations section (ALS) of the existing engine maintenance manual (EMM) to incorporate a visual inspection of the centrifugal compressor case for cracks. AD 2022–14–12 required replacing the propeller shaft for Model M601F engines. AD 2022–14–12 also required calculating the accumulated life of the propeller shaft and replacing the propeller shaft, if necessary, for model M601D–11, M601E–11, M601E–11A, M601E–11AS, and M601E–11S engines. Since the FAA issued AD 2022–13–16 and AD 2022–14–12, the manufacturer revised the ALS of the existing EMM to introduce new and more restrictive tasks and limitations, expand the applicability to all Model M601 engines, and incorporate certain requirements addressed by AD 2021–13–07 and AD 2023–01–10, which prompted this AD. This AD requires revising the ALS of the existing EMM and the operator's existing approved engine maintenance or inspection program, as applicable, to incorporate new and more restrictive tasks and limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 17, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 17, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No.FAA–2023–2149; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2023–2149.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2022–13–16, Amendment 39–22102 (87 FR 37986, June 27, 2022) (AD 2022–13–16); and AD 2022–14–12, Amendment 39–22117 (87 FR 42066, July 14, 2022) (AD 2022–14–12).

AD 2022–13–16 applied to all GEAC Model M601D–11 engines and required revising the ALS of the existing EMM to incorporate a visual inspection of the centrifugal compressor case. The FAA issued AD 2022–13–16 to prevent failure of the centrifugal compressor case.

AD 2022–14–12 applied to certain GEAC Model M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F engines. For Model M601F engines, AD 2022–14–12 required replacement of the propeller shaft. For Model M601D–11, M601E–11, M601E–11A, M601E–11AS, and M601E–11S engines, AD 2022–14–12 required calculating the accumulated life of the propeller shaft and replacing the propeller shaft if necessary.

The NPRM published in the **Federal Register** on November 14, 2023 (88 FR 77918). The NPRM was prompted by EASA AD 2023–0020, dated January 23, 2023 (EASA AD 2023–0020) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that the manufacturer revised the ALS to incorporate new and more restrictive tasks and limitations, expand the applicability to all model M601 series engines, and include certain requirements that were previously addressed by EASA Emergency AD 2021–0125–E and EASA AD 2021–0264. The MCAI also states that the manufacturer published service information that specifies instructions to determine the accumulated life of certain propeller shafts.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–2149.

In the NPRM, the FAA proposed to require revising the ALS of the existing EMM and the operator's existing approved engine maintenance or inspection program, as applicable, to incorporate new and more restrictive tasks and limitations.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these

products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2023–0020, which specifies procedures for accomplishment of the actions specified in the ALS, including performing maintenance tasks, replacing life-limited parts, and revising the existing approved maintenance or inspection program, as applicable, by incorporating the instructions and associated thresholds and intervals described in the ALS, as applicable to engine model and depending on engine configuration.

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

Costs of Compliance

The FAA estimates that this AD affects 42 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS	1 work-hours x $85 per hour = $85	$0	$85	$3,570

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2022–13–16, Amendment 39–22102 (87 FR 37986, June 27, 2022); and Airworthiness Directive 2022–14–12, Amendment 39–22117 (87 FR 42066, July 14, 2022); and

■ b. Adding the following new airworthiness directive:

2024–03–05 GE Aviation Czech s.r.o. (Type Certificate Previously Held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.): Amendment 39–22675; Docket No. FAA–2023–2149; Project Identifier MCAI–2023–00136–E.

(a) Effective Date

This airworthiness directive (AD) is effective April 17, 2024.

(b) Affected ADs

(1) This AD affects AD 2021–13–07, Amendment 39–21612 (86 FR 31601, June 15, 2021) (AD 2021–13–07).

(2) This AD replaces AD 2022–13–16, Amendment 39–22102 (87 FR 37986, June 27, 2022).

(3) This AD replaces AD 2022–14–12, Amendment 39–22117 (87 FR 42066, July 14, 2022).

(4) This AD affects AD 2023–01–10, Amendment 39–22304 (88 FR 7578, February 6, 2023) (AD 2023–01–10).

(c) Applicability

This AD applies to GE Aviation Czech s.r.o. (GEAC) (type certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) Model M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7210, Turbine Engine Reduction Gear.

(e) Unsafe Condition

This AD was prompted by the manufacturer revising the airworthiness limitations section (ALS) of the existing engine maintenance manual (EMM) to introduce new and more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts. The FAA is issuing this AD to prevent failure of the engine. The unsafe condition, if not addressed, could result in uncontained release of a critical part, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Except as specified in paragraph (h) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0020, dated January 23, 2023 (EASA AD 2023–0020).

(2) The action required by paragraph (g)(1) of this AD may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a) and 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(h) Exceptions to EASA AD 2023–0020

(1) Where EASA AD 2023–0020 defines the AMP as ''The Aircraft Maintenance Programme (AMP) contains the tasks on the basis of which the scheduled maintenance is conducted to ensure the continuing airworthiness of each operated engine,'' replace that text with ''the aircraft

maintenance program containing the tasks on the basis of which the scheduled maintenance is conducted to ensure the continuing airworthiness of each operated airplane.''

(2) Where EASA AD 2023–0020 specifies the ALS as ''The Airworthiness Limitations Section of the GEAC Engine Maintenance Manual (EMM) No. 0982309 Revision 21,'' replace that text with ''The Airworthiness Limitations Section of the GEAC Engine Maintenance Manual (EMM) No. 0982309 Revision 22.'' The ALS in Revision 22 of the EMM is unchanged from Revision 21.

(3) Where EASA AD 2023–0020 refers to its effective date, this AD requires using the effective date of this AD.

(4) Where paragraph (3) of EASA AD 2023–0020 specifies ''Within 12 months after the effective date of this AD, revise the approved AMP,'' replace that text with ''Within 90 days after the effective date of this AD, revise the ALS of the existing approved engine maintenance or inspection program, as applicable.''

(5) This AD does not require compliance with paragraphs (1), (2), (4), and (5) of EASA AD 2023–0020.

(6) This AD does not adopt the Remarks paragraph of EASA AD 2023–0020.

(i) Provisions for Alternative Actions and Intervals

After performing the actions required by paragraph (g) of this AD, no alternative actions and associated thresholds and intervals, including life limits, are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2023–0020.

(j) Terminating Action for Certain Actions Required by Affected ADs

(1) Accomplishing the actions required by paragraph (g) of this AD terminates the requirements of paragraphs (g)(1) through (3) of AD 2021–13–07 for model M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F engines only.

(2) Accomplishing the actions required by paragraph (g) of this AD terminates the requirements of paragraphs (g)(1) through (3) of AD 2023–01–10 for model M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F engines only.

(k) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Additional Information

For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0020, dated January 23, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0020, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on February 7, 2024.

Victor Wicklund,

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

[FR Doc. 2024–05247 Filed 3–12–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–0458; Project Identifier MCAI–2024–00116–E; Amendment 39–22694; AD 2024–04–51]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Pratt & Whitney Canada Corp. (P&WC) Model PT6A–64, PT6A–66, PT6A–66A, PT6A–66B, PT6A–66D, PT6A–67, PT6A–67A, PT6A–67AF, PT6A–67AG, PT6A–67B, PT6A–67D, PT6A–67F, PT6A–67P, PT6A–67R, PT6A–67RM, PT6A–67T, PT6A–68, PT6A–68D, PT6E–67XP, and PT6E–66XT engines. The FAA previously sent this AD as an emergency AD to all known U.S. owners and operators of these engines. This AD was prompted by reports of second-stage power turbine (PT2) blade failures. This AD requires removal of affected PT2 blades prior to the next flight and prohibits installation of affected PT2 blades, as specified in a Transport Canada Emergency AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 28, 2024. Emergency AD 2024–04–51, issued on February 16, 2024, which contained the requirements of this amendment, was effective with actual notice.

The Director of the Federal Register approved the incorporation by reference of a certain publication identified in this AD as of March 28, 2024.

The FAA must receive comments on this AD by April 29, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–0458; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this final rule, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; phone: (888) 663–3639; email: *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website: *tc.canada.ca/en/aviation.*
- You may view this material at the FAA, Airworthiness Products Section,

Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2024–0458.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7146; email: *barbara.caufield@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2024–0458; Project Identifier MCAI–2024–00116–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

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 AD 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 AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued Emergency AD 2024–04–51, dated February 16, 2024 (the emergency AD), to address an unsafe condition on P&WC Model PT6A–64, PT6A–66, PT6A–66A, PT6A–66B, PT6A–66D, PT6A–67, PT6A–67A, PT6A–67AF, PT6A–67AG, PT6A–67B, PT6A–67D, PT6A–67F, PT6A–67P, PT6A–67R, PT6A–67RM, PT6A–67T, PT6A–68, PT6A–68D, PT6E–67XP, and PT6E–66XT engines. The FAA sent the emergency AD to all known U.S. owners and operators of these engines. The emergency AD requires removal of affected PT2 blades prior to the next flight. The emergency AD also prohibits installation of affected PT2 blades.

The emergency AD was prompted by Transport Canada Emergency AD CF–2024–05, dated February 15, 2024 (Transport Canada Emergency AD CF–2024–05) (referred to after this as the MCAI), issued by Transport Canada, which is the aviation authority for Canada, to correct an unsafe condition on P&WC Model PT6A–64, PT6A–66, PT6A–66A, PT6A–66B, PT6A–66D, PT6A–66T, PT6A–67, PT6A–67A, PT6A–67AF, PT6A–67AG, PT6A–67B, PT6A–67D, PT6A–67F, PT6A–67P, PT6A–67R, PT6A–67RM, PT6A–67T, PT6A–68, PT6A–68B, PT6A–68C, PT6A–68D, PT6A–68T, PT6E–67XP, and PT6E–66XT engines. The MCAI states that there has been a recent in-service report of a PT2 blade failure on a model PT6A–67 engine and two reports of PT2 blade failures during testing at the manufacturer's facility. The PT2 blade failures were contained. The manufacturer is investigating the root cause of the PT2 blade failures, but the preliminary investigation determined that the affected power turbine modules contained PT2 blades with part number 3056693–01, which were newly manufactured from the same raw material. In all cases, the PT2 blades had accumulated less than 25 hours air time since new. Transport Canada Emergency AD CF–2024–05 specifies removal of the suspect blades prior to the next flight and prohibits installation of the suspect blades. Transport Canada Emergency AD CF–2024–05 states that the corrective actions are interim actions until the root cause investigation is completed. This condition, if not addressed, could result in engine power loss or engine in-flight shut down, resulting in consequent emergency landing or reduced control of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–0458.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Transport Canada Emergency AD CF–2024–05, which requires replacing the affected PT2 blades. Transport Canada Emergency AD CF–2024–05 also prohibits the installation of the affected PT2 blades. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES.**

FAA's Determination

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

AD Requirements

This AD requires accomplishing the actions specified in the MCAI, except as discussed under ''Differences Between this AD and the MCAI.''

Differences Between This AD and the MCAI

The MCAI applies to P&WC Model PT6A–66T, PT6A–68B, PT6A–68C, and PT6A–68T engines, but this emergency AD does not as these engines are not U.S. type-certificated.

Interim Action

The FAA considers that this AD is an interim action. The manufacturer is currently investigating the root cause of the unsafe condition identified in this AD. If final action is later identified, the FAA might consider further rulemaking.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance.

Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that required the immediate adoption of Emergency AD 2024–04–51, issued on February 16, 2024, to all known U.S. owners and operators of these engines. The FAA found that the risk to the flying public justified waiving notice and comment prior to adoption of this rule because failure of the PT2 blade could result in engine power loss or engine in-flight shut down, and consequent emergency landing or reduced control of the airplane. Given the significance of the risk presented by this unsafe condition, it must be immediately addressed. Thus, the FAA has determined that the affected PT2 blades must be removed before further flight. These conditions still exist, therefore, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 75 engines installed on aircraft of U.S. registry. The FAA does not know how many affected PT2 blades are installed on each engine. This cost estimate therefore reflects the cost of replacing one affected PT2 blade per engine. Replacing more than one affected PT2 blade at the same time would not incur additional labor costs.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost (average pro-rated cost)	Cost per product	Cost on U.S. operators
Replace PT2 blade	8 work-hours x $85 per hour = $680	$4,001	$4,681	$351,075

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–04–51 Pratt & Whitney Canada Corp.: Amendment 39–22694; Docket No. FAA–2024–0458; Project Identifier MCAI–2024–00116–E.

(a) Effective Date

The FAA issued emergency Airworthiness Directive (AD) 2024–04–51 on February 16, 2024, directly to affected owners and operators. As a result of such actual notice, the emergency AD was effective for those owners and operators on the date it was received. This AD contains the same requirements as the emergency AD and, for those who did not receive actual notice, is effective on March 28, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. Model PT6A–64, PT6A–66, PT6A–66A, PT6A–66B, PT6A–66D, PT6A–67, PT6A–67A, PT6A–67AF, PT6A–67AG, PT6A–67B, PT6A–67D, PT6A–67F, PT6A–67P, PT6A–67R, PT6A–67RM, PT6A–67T, PT6A–68, PT6A–68D, PT6E–67XP, and PT6E–66XT engines.

(d) Subject

Joint Aircraft System Component (JASC) Code, 7250 Turbine Section.

(e) Unsafe Condition

This AD was prompted by reports from the manufacturer of the failure of second-stage power turbine (PT2) blades. The FAA is issuing this AD to prevent the failure of PT2 blades. The unsafe condition, if not addressed, could result in engine power loss or engine in-flight shut down, resulting in consequent emergency landing or reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in

accordance with, Transport Canada Emergency AD CF–2024–05, dated February 15, 2024 (Transport Canada Emergency AD CF–2024–05).

(h) Exceptions to Transport Canada Emergency AD CF–2024–05

(1) Where Transport Canada Emergency AD CF–2024–05 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada Emergency AD CF–2024–05 refers to hours air time, this AD requires using flight hours.

(3) Where paragraph B of Transport Canada Emergency AD CF–2024–05 specifies ''After the effective date of this AD,'' replace that text with ''As of the effective date of this AD.''

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the AIR–520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email it to *ANE-AD-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local Flight Standards District Office/certificate holding district office.

(j) Additional Information

For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Transport Canada Emergency AD CF–2024–05, dated February 15, 2024.

(ii) [Reserved]

(3) For Transport Canada Emergency AD CF–2024–05, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; phone: (888) 663–3639; email: *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website: *tc.canada.ca/en/aviation.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on February 29, 2024.

Victor Wicklund,

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

[FR Doc. 2024–05238 Filed 3–8–24; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 770, and 774

[Docket No. 240221–0054]

RIN 0694–AJ38

Clarification of Controls on Radiation Hardened Integrated Circuits and Expansion of License Exception GOV

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Interim final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to clarify controls on radiation hardened integrated circuits, including controls on computer and telecommunications equipment incorporating such radiation hardened integrated circuits. This rule also addresses certain scenarios that apply to certain integrated circuits acquired, tested, or otherwise used by or for the United States Government and affirms the availability of License Exception GOV for such items when pursuant to an official written request or directive from the Department of Defense or the Department of Energy. Lastly, this rule expands the availability of License Exception GOV for microelectronics items being exported, reexported, or transferred (in-country) in furtherance of a contract between the exporter, reexporter, or transferor and a department or agency of the U.S. Government when the contract provides for the export, reexport, transfer (in-country) of the item by the exporter, reexporter, or transferor in order to remove export control obstacles for official business of the U.S. Government, including the Department of Energy and the Department of Defense.

DATES:

Effective date: This rule is effective March 13, 2024.

Comments due date: Comments must be received by BIS no later than April 12, 2024.

ADDRESSES: Comments on this rule may be submitted to the Federal rulemaking portal (*www.regulations.gov*). The *regulations.gov* ID for this rule is: BIS–2023–0038. Please refer to RIN 0694–AJ38 in all comments.

All filers using the portal should use the name of the person or entity submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC.'' Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. The corresponding non-confidential version of those comments must be clearly marked ''PUBLIC.'' The file name of the non-confidential version should begin with the character ''P.'' Any submissions with file names that do not begin with either a ''BC'' or a ''P'' will be assumed to be public and will be made publicly available through *https://www.regulations.gov.* Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential version to create an image of the file, rather than submitting a digital copy with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

FOR FURTHER INFORMATION CONTACT: Brian Baker, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Phone: (202) 482–9135; Email: *Brian.Baker@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Department of Defense (DOD) Leadership established the Strategic Radiation Hardened Electronics Council (SRHEC) in September, 2018 with the goal of to ensuring continued access to Strategic Radiation Hardened (SRH) and Radiation Hardened (RH) electronics and the long-term viability of the domestic infrastructure that are critical to the Nation's security and defense. In support of that effort, the Bureau of Industry and Security (BIS) is amending

the Export Administration Regulations (EAR, 15 CFR parts 730–774) to clarify the scope of controls on radiation hardened integrated circuits, including controls on computer and telecommunications equipment incorporating such radiation hardened integrated circuits. Additionally, this rule addresses certain scenarios that apply to certain integrated circuits acquired, tested, or otherwise used by or for the United States Government and affirms the availability of License Exception GOV (15 CFR 740.11) for such items when exported, reexported, or transferred (in-country) pursuant to an official written request or directive from the Department of Defense or the Department of Energy. This rule also expands the availability of License Exception GOV for microelectronics items being exported, reexported, or transferred (in-country) in furtherance of a contract between the exporter, reexporter, and transferor and a department or agency of the U.S. Government (USG) when the contract provides for the export, reexport, or transfer (in-country) of the item by the exporter, reexporter, or transferor. This change will remove the obstacle of obtaining export authorization that currently hinders contract performance work in producing microelectronics items subject to the EAR by, for or at the direction of USG, where some exports, reexports or transfers (in-country) between onshore and offshore ''development'' or ''production'' partners may transpire.

§ 740.11 License Exception GOV

This rule revises paragraph (b)(1) by adding the phrase ''for or at the direction of'' and adding ''or the Department of Energy,'' to the first sentence.

This rule also revises paragraph (b)(2)(iv) by adding ''or the Department of Energy'' to the heading of paragraph (b)(2)(iv) and ''or the Department of Energy'' to the same paragraph. Also, for clarification this rule adds ''department or'' in front of ''agency of the U.S. Government. BIS was made aware that the authorization provided in paragraph (b)(2)(iv) (*i.e.,* authorization to export, reexport or transfer (in country) items subject to the EAR pursuant to an official request or directive issued by DOD) is also needed by the Department of Energy (DOE) in order to ensure the continued availability, access and assurance of the strategic radiation hardened electronics that are critical to the nation's security and defense; therefore BIS is ensuring that authorization is available to DOE by making the revisions described.

BIS is also adding paragraph (b)(2)(vii), to authorize the export, reexport, or transfer (in-country) of microelectronics items in furtherance of a contract between the exporter, reexporter, or transferor and a department or agency of the USG, if the contract provides for such export, reexport, or transfer (in-country) of the microelectronics item by the exporter, reexporter, or transferor. This ensures the continued availability, access, and assurance of the strategic microelectronics that are critical to the nation's security and defense.

§ 770.2 Item Interpretations

This rule revises § 770.2 to add paragraph (o) *Interpretation 15: Certain integrated circuits acquired, tested, or otherwise used by or for the United States Government.* This new paragraph provides the public with guidance about the classification of integrated circuits (IC) on the Commerce Control List (CCL) of supplement no. 1 to part 774 of the EAR when there is USG involvement in the fabrication of the IC, such as testing or modification requests. BIS is also adding two example scenarios to help the public understand the provisions of this new paragraph.

Supplement No. 1 to Part 774—Commerce Control List

This rule revises Export Control Classification Numbers (ECCNs) 4A001, 4A101, 5A001, 6A203, and 6A999 on the CCL to add a note to the Related Controls paragraph of each of these ECCNs to explain that the act of incorporating a radiation hardened integrated circuit into commodities specified under other ECCNs on the CCL or designated as EAR99 does not, in and of itself, cause the commodity into which the radiation hardened integrated circuit is incorporated to meet the radiation hardened specifications of ECCNs 4A001.a.2, 4A101.b, 5A001.a.2, 6A203.d, or 6A999.b. For example, the incorporation of a radiation hardened integrated circuit classified under ECCN 3A001.a.1 into a computer classified under ECCN 4A994 does not, in and of itself, change the classification of the computer to ECCN 4A001.a.2.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. This interim final rule has been designated a ''significant regulatory action'' under Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves the following OMB-approved collections of information subject to the PRA:

- 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 29.4 minutes for a manual or electronic submission;
- 0694–0096, ''Five Year Records Retention Period,'' which carries a burden hour estimate of less than 1 minute;
- 0694–0122, ''Licensing Responsibilities and Enforcement;'' and
- 0607–0152, ''Automated Export System (AES) Program,'' which carries a burden hour estimate of 3 minutes per electronic submission.

BIS expects the burden hours associated with these collections to remain the same, because the revisions in this rule are intended to preempt future licensing delays and volume to USG programs and their industry/DIB contract performers, rather than address current license application burden. Additional information regarding these collections of information—including all background materials—can be found at *https://www.reginfo.gov/public/do/PRAMain* by using the search function to enter either the title of the collection or the OMB Control Number.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)).

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be

given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

List of Subjects

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 770

Exports.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 740, 770, and 774 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 740—LICENSE EXCEPTIONS

■ 1. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 2. Section 740.11 is amended by revising paragraphs (b)(1) and (b)(2)(iv), and adding paragraph (b)(2)(vii), to read as follows:

§ 740.11 Governments, international organizations, international inspections under the Chemical Weapons Convention, and the International Space Station (GOV).

* * * * *

(b) * * *

(1) *Scope.* The provisions of this paragraph (b) authorize exports, reexports, and transfers (in-country) to personnel and agencies of the U.S. Government and certain exports by, for or at the direction of the Department of Defense or the Department of Energy. ''Agency of the U.S. Government'' includes all civilian and military departments, branches, missions, government-owned corporations, and other agencies of the U.S. Government but does not include such national agencies as the American Red Cross or international organizations in which the United States participates such as the Organization of American States. Therefore, shipments may not be made to these non-governmental national or international agencies, except as provided in paragraph (b)(2)(i) of this section for U.S. representatives to these organizations.

* * * * *

(2) * * *

(iv) *Items exported at the direction of the U.S. Department of Defense or the Department of Energy.* This paragraph authorizes items to be exported, reexported, or transferred (in-country) pursuant to an official written request or directive from a department or agency of the U.S. Department of Defense or the Department of Energy.

* * * * *

(vii) This paragraph authorizes the export, reexport, or transfer (in-country) of microelectronics items in furtherance of a contract between the exporter, reexporter, or transferor and a department or agency of the U.S. Government, if the contract provides for such export, reexport, or transfer (in-country) of the microelectronics item by the exporter, reexporter, or transferor.

PART 770—INTERPRETATIONS

■ 3. The authority citation for part 770 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 4. Section 770.2 is amended by adding paragraph (o) to read as follows:

§ 770.2 Item interpretations.

* * * * *

(o) *Interpretation 15: Certain integrated circuits acquired, tested, or otherwise used by or for the United States Government*—(1) *Classification of the integrated circuit (IC).* Integrated circuits (ICs), including packaged ''electronic assemblies'' of ICs described by this section, that are manufactured using existing commercial fabrication process technologies and which are acquired, tested, or otherwise used by, for, or under contract with the United States Government (USG), are not considered to be radiation hardened (*e.g.,* designed to withstand a specified radiation dose or upset) or temperature rated (*e.g.,* rated to operate at prescribed temperatures) as may otherwise be specified under an Export Control Classification Number (ECCN) on the Commerce Control List (CCL) in supplement no. 1 to part 774 of the EAR, provided all of the following apply:

(i) During ''development'', the IC is not designed, rated, or certified (except by or for the USG) to meet the radiation or temperature specifications of any ECCN; and

(ii) All commercial testing (including by the manufacturer during fabrication, sort, packaging or assembly) regarding radiation or temperature is limited to standard commercial tools and techniques, or else by means funded or furnished by the USG for their use in the commercial setting for these specified ICs.

(2) *Activities that do not change the classification of ''software'' or ''technology'' for the commercial fabrication of ICs.* The ''development'', ''production,'' or subsequent use of the ICs described by this section does not change the classification of any underlying standard commercial process ''software'' or ''technology'' used to manufacture or test these ICs, provided all of the following apply:

(i) Any utilized existing commercial ''software'' or ''technology'' specified under ECCNs 3D991, 3E991, 3E001, 9D515.d, 9D515.e, 9E515.d or 9E515.e does not meet the ''required'' standard (as defined in part 772 of the EAR) of any other ECCN on the CCL; and

Note 1 to paragraph (o)(2)(i): The use of existing commercial ''software'' or ''technology'' by or for the USG for the purposes described in paragraph (o)(1) of this section does not, in and of itself, establish the ''required'' standard to meet the specifications of any ECCN on the CCL.

(ii) The functional capability of the hardware, ''software,'' or ''technology'' existing within the standard commercial fabrication process has not been modified (*e.g.,* by addition of special process steps or unique interpretation of design data), except as may be required or requested by the USG (*e.g.,* as a stipulation of contract performance) where all of the following apply:

(A) The modifications do not change the ECCN of any item subject to the EAR (except to a less restrictive classification, *e.g.,* from an ECCN on the CCL to EAR99); and

(B) The modifications are limited to the manufacture or testing of ICs by or for the USG as specified in paragraph (o)(1) of this section.

(3) *Examples.* Scenarios addressed by this section include the following:

(i) If a commercially fabricated IC specified under ECCN 3A991 is tested by the USG (or by a person or entity in a contractual relationship with the USG) and meets the radiation-hardened parameters in ECCN 3A001.a.1, the classification of the IC does not change from ECCN 3A991 and the classifications of the underlying standard process ''technology'', ''equipment'' and ''software'' do not change from their original ECCNs.

(ii) If a standard commercial process for fabricating ICs includes certain ''technology'' specified under ECCN 3E001 (*e.g.,* for ICs specified under

ECCN 3A001.a.1), or ECCN 9E515 (*e.g.,* for discrete electronic components specified under ECCNs 9A515.d or .e) and those process ''technologies'' are used to manufacture ICs and discrete electronic components for the U.S. Government, only the portion of the ''technology'' that is ''required'' meets the specifications under ECCN 3E001 or 9E515. Moreover, the use of these standard commercial processes does not presumptively result in the control of the resulting U.S. Government ICs under ECCN paragraphs 3A001.a.1 or 9A515.d or .e; instead, the ECCNs of the U.S. Government ICs subject to the EAR would be determined according to paragraph (o)(1) of this section.

(iii) If a standard commercial IC fabrication process at a particular foundry is comprised of tools specified under ECCNs 3B001 or 3B991 or as EAR99, and where the ''technology'' is limited to ''technology'' specified under ECCN 3E991 or as EAR99, and that foundry (which typically produces ICs specified under ECCN 3A991 or as EAR99) were to deviate from its standard fabrication process (*e.g.,* by adding special process steps or design features) to produce a family of ICs designed to meet or exceed the radiation hardened parameters in ECCN paragraphs 3A001.a.1 or 9A515.d. or .e and intended for sale to U.S. and non-U.S. commercial and government customers, then the ECCN of the additional process ''technology'' that is ''required'' for producing those specific radiation hardened ICs would need to be separately evaluated and determined (*e.g.,* under ECCNs 3E001 and 9E515, as applicable).

PART 774—THE COMMERCE CONTROL LIST

■ 5. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 6. Supplement no. 1 to part 774 is amended by revising ECCNs 4A001, 4A101, 5A001, 6A203, and 6A999, to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

4A001 Electronic computers and related equipment, having any of the following (see List of Items Controlled), and ''electronic assemblies'' and ''specially designed'' ''components'' therefor.

License Requirements

Reason for Control: NS, MT, AT, NP

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2.
MT applies to items in 4A001.a when the parameters in 4A101 are met or exceeded.	MT Column 1.
AT applies to entire entry.	AT Column 1.
NP applies, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.	N/A.

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $5000 for 4A001.a; N/A for MT.
GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship any commodity in 4A001.a.2 to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See also 4A101 and 4A994. Equipment designed or rated for transient ionizing radiation is ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) The act of incorporating a radiation hardened integrated circuit into a computer that is specified under ECCN 4A994 or designated as EAR99 does not, in and of itself, cause the computer to meet the parameters of ECCN paragraph 4A001.a.2.
Related Definitions: For the purposes of integrated circuits in 4A001.a.2, 5×10^3 Gy(Si) = 5×10^5 Rads (Si); 5×10^6 Gy (Si)/s = 5×10^8 Rads (Si)/s.
Items:
a. ''Specially designed'' to have any of the following:
a.1. [Reserved]
a.2. Radiation hardened to exceed any of the following specifications:
a.2.a. A total dose of 5×10^3 Gy (Si);
a.2.b. A dose rate upset of 5×10^6 Gy (Si)/s; or
a.2.c. Single Event Upset of 1×10^{-8} Error/bit/day;
Note: *4A001.a.2 does not apply to computers ''specially designed'' for ''civil aircraft'' applications.*
b. [Reserved]

* * * * *

4A101 Analog computers, ''digital computers'' or digital differential analyzers, other than those controlled by 4A001 designed or modified for use in ''missiles'', having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
MT applies to entire entry.	MT Column 1.
AT applies to entire entry.	AT Column 1.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: The act of incorporating a radiation hardened integrated circuit into a computer that is specified under ECCN 4A994 or designated as EAR99 does not, in and of itself, cause the computer to meet the parameters of ECCN paragraph 4A101.b.
Related Definitions: N/A
Items:
a. Rated for continuous operation at temperatures from below 228 K (−45 °C) to above 328 K (+55 °C); *or*
b. Designed as ruggedized or 'radiation hardened'.
Note: *For the purposes of 4A101,'radiation hardened' means that the ''part,'' ''component'' or equipment is designed or rated to withstand radiation levels which meet or exceed a total irradiation dose of* 5×10^5 *rads (Si).*

* * * * *

5A001 Telecommunications systems, equipment, ''components'' and ''accessories,'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, SL, AT

Control(s)	*Country chart (see Supp. No.1 to part 738)*
NS applies to 5A001.a, b.5, .e, .f.3 and .h.	NS Column 1.
NS applies to 5A001.b (except .b.5), .c, .d, .f (except f.3), .g, and .j.	NS Column 2.

Control(s)	Country chart (see Supp. No.1 to part 738)
SL applies to 5A001.f.1.	A license is required for all destinations, as specified in § 742.13 of the EAR. Accordingly, a column specific to this control does not appear on the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR). **Note to SL paragraph:** *This licensing requirement does not supersede, nor does it implement, construe or limit the scope of any criminal statute, including, but not limited to the Omnibus Safe Streets Act of 1968, as amended.*
AT applies to entire entry.	AT Column 1.

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A for 5A001.a, b.5, .e, f.3 and .h; $5000 for 5A001.b.1, .b.2, .b.3, .b.6, .d, f.2, f.4, and .g; $3000 for 5A001.c.

GBS: Yes, except 5A001.a, b.5, e, and h.

ACE: Yes for 5A001.j, except to Country Group E:1 or E:2. See § 740.22 of the EAR for eligibility criteria.

Special Conditions for STA

STA: License Exception STA may not be used to ship any commodity in 5A001.j to any of the destinations listed in Country Group A:5 or A:6 (See Supplement No. 1 to part 740 of the EAR), or any commodity in 5A001.b.3, .b.5 or .h to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See USML Category XI for controls on direction-finding ''equipment'' including types of ''equipment'' in ECCN 5A001.e and any other military or intelligence electronic ''equipment'' that is ''subject to the ITAR.'' (2) See USML Category XI(a)(4)(iii) for controls on electronic attack and jamming ''equipment'' defined in 5A001.f and .h that are subject to the ITAR. (3) The act of incorporating a radiation hardened integrated circuit into telecommunications equipment that is specified under ECCN 5A991 or designated as EAR99 does not, in and of itself, cause the telecommunications equipment to meet the specifications of ECCN paragraph 5A001.a.2. (4) See also ECCNs 5A101, 5A980, and 5A991.

a. Any type of telecommunications equipment having any of the following characteristics, functions or features:

a.1. ''Specially designed'' to withstand transitory electronic effects or electromagnetic pulse effects, both arising from a nuclear explosion;

a.2. Specially hardened to withstand gamma, neutron or ion radiation;

a.3. ''Specially designed'' to operate below 218 K (−55 °C); *or*

a.4. ''Specially designed'' to operate above 397 K (124 °C);

Note: *5A001.a.3 and 5A001.a.4 apply only to electronic equipment.*

b. Telecommunication systems and equipment, and ''specially designed'' ''components'' and ''accessories'' therefor, having any of the following characteristics, functions or features:

b.1 Being underwater untethered communications systems having any of the following:

b.1.a. An acoustic carrier frequency outside the range from 20 kHz to 60 kHz;

b.1.b. Using an electromagnetic carrier frequency below 30 kHz; *or*

b.1.c. Using electronic beam steering techniques; *or*

b.1.d. Using ''lasers'' or light-emitting diodes (LEDs), with an output wavelength greater than 400 nm and less than 700 nm, in a ''local area network'';

b.2. Being radio equipment operating in the 1.5 MHz to 87.5 MHz band and having all of the following:

b.2.a.. Automatically predicting and selecting frequencies and ''total digital transfer rates'' per channel to optimize the transmission; *and*

b.2.b. Incorporating a linear power amplifier configuration having a capability to support multiple signals simultaneously at an output power of 1 kW or more in the frequency range of 1.5 MHz or more but less than 30 MHz, or 250 W or more in the frequency range of 30 MHz or more but not exceeding 87.5 MHz, over an ''instantaneous bandwidth'' of one octave or more and with an output harmonic and distortion content of better than −80 dB;

b.3. Being radio equipment employing ''spread spectrum'' techniques, including ''frequency hopping'' techniques, not controlled in 5A001.b.4 and having any of the following:

b.3.a. User programmable spreading codes; *or*

b.3.b. A total transmitted bandwidth which is 100 or more times the bandwidth of any one information channel and in excess of 50 kHz;

Note: *5A001.b.3.b does not control radio equipment ''specially designed'' for use with any of the following:*

a. Civil cellular radio-communications systems; or

b. Fixed or mobile satellite Earth stations for commercial civil telecommunications.

Note: *5A001.b.3 does not control equipment operating at an output power of 1 W or less.*

b.4. Being radio equipment employing ultra-wideband modulation techniques, having user programmable channelizing codes, scrambling codes, or network identification codes and having any of the following:

b.4.a. A bandwidth exceeding 500 MHz; *or*

b.4.b. A ''fractional bandwidth'' of 20% or more;

b.5. Being digitally controlled radio receivers having all of the following:

b.5.a. More than 1,000 channels;

b.5.b. A 'channel switching time' of less than 1 ms;

b.5.c. Automatic searching or scanning of a part of the electromagnetic spectrum; *and*

b.5.d. Identification of the received signals or the type of transmitter; *or*

Note: *5A001.b.5 does not control radio equipment ''specially designed'' for use with civil cellular radio-communications systems.*

Technical Note: *For the purposes of 5A001.b.5.b, 'channel switching time' means the time (i.e., delay) to change from one receiving frequency to another, to arrive at or within ±0.05% of the final specified receiving frequency. Items having a specified frequency range of less than ±0.05% around their center frequency are defined to be incapable of channel frequency switching.*

b.6. Employing functions of digital ''signal processing'' to provide 'voice coding' output at rates of less than 700 bit/s.

Technical Notes:

1. For variable rate 'voice coding', 5A001.b.6 applies to the 'voice coding' output of continuous speech.

2. For the purposes of 5A001.b.6, 'voice coding' is defined as the technique to take samples of human voice and then convert these samples of human voice into a digital signal taking into account specific characteristics of human speech.

c. Optical fibers of more than 500 m in length and specified by the manufacturer as being capable of withstanding a 'proof test' tensile stress of 2×10^9 N/m^2 or more;

N.B.: *For underwater umbilical cables, see 8A002.a.3.*

Technical Note: *For the purposes of 5A001.c, 'proof test' is the on-line or off-line production screen testing that dynamically applies a prescribed tensile stress over a 0.5 to 3 m length of fiber at a running rate of 2 to 5 m/s while passing between capstans approximately 150 mm in diameter. The ambient temperature is a nominal 293 K (20 °C) and relative humidity 40%. Equivalent national standards may be used for executing the proof test.*

d. ''Electronically steerable phased array antennae'' as follows:

d.1. Rated for operation above 31.8 GHz, but not exceeding 57 GHz, and having an Effective Radiated Power (ERP) equal to or greater than +20 dBm (22.15 dBm Effective Isotropic Radiated Power (EIRP));

d.2. Rated for operation above 57 GHz, but not exceeding 66 GHz, and having an ERP equal to or greater than +24 dBm (26.15 dBm EIRP);

d.3. Rated for operation above 66 GHz, but not exceeding 90 GHz, and having an ERP equal to or greater than +20 dBm (22.15 dBm EIRP);

d.4. Rated for operation above 90 GHz;

Note 1: *5A001.d does not control 'electronically steerable phased array*

antennae' for landing systems with instruments meeting ICAO standards covering Microwave Landing Systems (MLS).

Note 2: *5A001.d does not apply to antennae ''specially designed'' for any of the following:*

a. Civil cellular or WLAN radio-communications systems;

b. IEEE 802.15 or wireless HDMI; or

c. Fixed or mobile satellite earth stations for commercial civil telecommunications.

Technical Note: *For the purposes of 5A001.d, 'electronically steerable phased array antenna' is an antenna which forms a beam by means of phase coupling, (i.e., the beam direction is controlled by the complex excitation coefficients of the radiating elements) and the direction of that beam can be varied (both in transmission and reception) in azimuth or in elevation, or both, by application of an electrical signal.*

e. Radio direction finding equipment operating at frequencies above 30 MHz and having all of the following, and ''specially designed'' ''components'' therefor:

e.1. ''Instantaneous bandwidth'' of 10 MHz or more; and

e.2. Capable of finding a Line Of Bearing (LOB) to non-cooperating radio transmitters with a signal duration of less than 1 ms;

f. Mobile telecommunications interception or jamming equipment, and monitoring equipment therefor, as follows, and ''specially designed'' ''components'' therefor:

f.1. Interception equipment designed for the extraction of voice or data, transmitted over the air interface;

f.2. Interception equipment not specified in 5A001.f.1, designed for the extraction of client device or subscriber identifiers (*e.g.,* IMSI, TIMSI or IMEI), signaling, or other metadata transmitted over the air interface;

f.3. Jamming equipment ''specially designed'' or modified to intentionally and selectively interfere with, deny, inhibit, degrade or seduce mobile telecommunication services and performing any of the following:

f.3.a. Simulate the functions of Radio Access Network (RAN) equipment;

f.3.b. Detect and exploit specific characteristics of the mobile telecommunications protocol employed (*e.g.,* GSM); *or*

f.3.c. Exploit specific characteristics of the mobile telecommunications protocol employed (*e.g.,* GSM);

f.4. Radio Frequency (RF) monitoring equipment designed or modified to identify the operation of items specified in 5A001.f.1, 5A001.f.2 or 5A001.f.3.

Note: *5A001.f.1 and 5A001.f.2 do not apply to any of the following:*

a. Equipment ''specially designed'' for the interception of analog Private Mobile Radio (PMR), IEEE 802.11 WLAN;

b. Equipment designed for mobile telecommunications network operators; or

c. Equipment designed for the ''development'' or ''production'' of mobile telecommunications equipment or systems.

N.B. 1: *See also the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). For items specified by 5A001.f.1 (including as previously specified by 5A001.i), see also 5A980 and the U.S. Munitions List (22 CFR part 121).*

N.B. 2: *For radio receivers see 5A001.b.5.*

g. Passive Coherent Location (PCL) systems or equipment, ''specially designed'' for detecting and tracking moving objects by measuring reflections of ambient radio frequency emissions, supplied by non-radar transmitters.

Technical Note: *For the purposes of 5A001.g, non-radar transmitters may include commercial radio, television or cellular telecommunications base stations.*

Note: *5A001.g. does not control:*

a. Radio-astronomical equipment; or

b. Systems or equipment, that require any radio transmission from the target.

h. Counter Improvised Explosive Device (IED) equipment and related equipment, as follows:

h.1. Radio Frequency (RF) transmitting equipment, not specified by 5A001.f, designed or modified for prematurely activating or preventing the initiation of Improvised Explosive Devices (IEDs);

h.2. Equipment using techniques designed to enable radio communications in the same frequency channels on which co-located equipment specified by 5A001.h.1 is transmitting.

N.B.: *See also Category XI of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).*

i. [Reserved]

N.B.: *See 5A001.f.1 for items previously specified by 5A001.i.*

j. IP network communications surveillance systems or equipment, and ''specially designed'' components therefor, having all of the following:

j.1. Performing all of the following on a carrier class IP network (*e.g.,* national grade IP backbone):

j.1.a. Analysis at the application layer (*e.g.,* Layer 7 of Open Systems Interconnection (OSI) model (ISO/IEC 7498–1));

j.1.b. Extraction of selected metadata and application content (*e.g.,* voice, video, messages, attachments); *and*

j.1.c. Indexing of extracted data; *and*

j.2. Being ''specially designed'' to carry out all of the following:

j.2.a. Execution of searches on the basis of ''hard selectors''; *and*

j.2.b. Mapping of the relational network of an individual or of a group of people.

Note: *5A001.j does not apply to ''systems'' or ''equipment'', ''specially designed'' for any of the following:*

a. Marketing purpose;

b. Network Quality of Service (QoS); or

c. Quality of Experience (QoE).

N.B.: *See also the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). Defense articles described in USML Category XI(b) are ''subject to the ITAR.''*

* * * * *

6A203 High-speed cameras, imaging devices and ''components'' therefor, other than those controlled by 6A003 (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NP applies to entire entry.	NP Column 1.
AT applies to entire entry.	AT Column 1.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See ECCNs 6E001 (''development''), 6E002 (''production''), and 6E201 (''use'') for technology for items controlled under this entry. (2) Also see ECCN 6A003.a.3 and a.4. (3) The act of incorporating a radiation hardened integrated circuit into a TV camera designated as EAR99 does not, in and of itself, cause the TV camera to meet the parameters of ECCN paragraph 6A203.d.

Related Definitions: N/A

Items:

a. Streak cameras and ''specially designed'' components therefor, as follows:

a.1. Streak cameras with writing speeds greater than 0.5 mm/μs;

a.2. Electronic streak cameras capable of 50 ns or less time resolution;

a.3. Streak tubes for cameras described in 6A203.a.2;

a.4. Plug-ins, ''specially designed'' for use with streak cameras having modular structures, that enable the performance characteristics described in 6A203.a.1 or .a.2;

a.5. Synchronizing electronics units, and rotor assemblies consisting of turbines, mirrors and bearings, that are ''specially designed'' for cameras described in 6A203.a.1.

b. Framing cameras and ''specially designed'' components therefor, as follows:

b.1. Framing cameras with recording rates greater than 225,000 frames per second;

b.2. Framing cameras capable of 50 ns or less frame exposure time;

b.3. Framing tubes, and solid-state imaging devices, that have a fast image gating (shutter) time of 50 ns or less and are ''specially designed'' for cameras described in 6A203.b.1 or .b.2;

b.4. Plug-ins, ''specially designed'' for use with framing cameras having modular structures, that enable the performance characteristics described in 6A203.b.1 or .b.2;

b.5. Synchronizing electronic units, and rotor assemblies consisting of turbines, mirrors and bearings, that are ''specially designed'' for cameras described in 6A203.b.1 or .b.2.

c. Solid-state or electron tube cameras and ''specially designed'' components therefor, as follows:

c.1. Solid-state cameras, or electron tube cameras, with a fast image gating (shutter) time of 50 ns or less;

c.2. Solid-state imaging devices, and image intensifiers tubes, that have a fast image gating (shutter) time of 50 ns or less and are ''specially designed'' for cameras described in 6A203.c.1;

c.3. Electro-optical shuttering devices (Kerr or Pockels cells) with a fast image gating (shutter) time of 50 ns or less;

c.4. Plug-ins, ''specially designed'' for use with cameras having modular structures, that enable the performance characteristics described in 6A203.c.1.

Technical Note: *High speed single frame cameras can be used alone to produce a single image of a dynamic event, or several such cameras can be combined in a sequentially-triggered system to produce multiple images of an event.*

d. Radiation-hardened TV cameras, or lenses therefor, ''specially designed'' or rated as radiation hardened to withstand a total radiation dose greater than 5×10^4 Gy (silicon) without operational degradation.

Technical Note: *The term Gy (silicon) refers to the energy in Joules per kilogram absorbed by an unshielded silicon sample when exposed to ionizing radiation.*

* * * * *

6A999 Specific processing equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: RS AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
RS applies to 6A999.c.	RS Column 2.
AT applies to entire entry.	A license is required for items controlled by this entry to North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. See § 742.19 of the EAR for additional information.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) The act of incorporating a radiation hardened integrated circuit into a TV camera designated as EAR99 does not, in and of itself, cause the TV camera to meet the specifications of ECCN paragraph 6A999.b. (2) See also 6A203.
Related Definitions: N/A
Items:

a. Seismic detection equipment not controlled in paragraph c.

b. Radiation hardened TV cameras, n.e.s.

c. Seismic intrusion detection systems that detect, classify and determine the bearing on the source of a detected signal.

* * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2024–05267 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 140, 141, 211, 213, 225, 226, 227, 243, 249, 273, and 700

[245A2100DD/AAKC001030/A0A501010.999900253G]

RIN 1076–AF75

Civil Penalties Inflation Adjustments; Annual Adjustments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This rule provides for annual adjustments to the level of civil monetary penalties contained in Bureau of Indian Affairs (Bureau) regulations to account for inflation under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget (OMB) guidance.

DATES: This rule is effective on March 13, 2024.

ADDRESSES:

- *Federal eRulemaking Portal:* This rule may be found on the internet at *https://www.regulations.gov* by entering ''RIN 1076–AF75'' in the search box.
- *Alternative Format:* On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals can obtain this document in an alternate format, usable by people with disabilities, at the Office of the Assistant Secretary—Indian Affairs, Room 4660, 1849 C Street NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Oliver Whaley, Director, Office of Regulatory Affairs and Collaborative Action (RACA), Office of the Assistant Secretary—Indian Affairs; Department of the Interior, *RACA@bia.gov;* telephone (202) 738–6065. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (sec. 701 of Pub. L. 114–74) (''the Act''). The Act requires Federal agencies to adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through rulemaking and then make subsequent annual adjustments for inflation. The purpose of these adjustments is to maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes.

The Office of Management and Budget (OMB) issued guidance for Federal agencies on calculating the catch-up adjustment. *See* February 24, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, Office of Management and Budget, re: *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (M–16–06). Under the guidance, the Department identified applicable civil monetary penalties and calculated the catch-up adjustment. A civil monetary penalty is any assessment with a dollar amount that is levied for a violation of a Federal civil statute or regulation, and is assessed or enforceable through a civil action in Federal court or an administrative proceeding. A civil monetary penalty does not include a penalty levied for violation of a criminal statute, or fees for services, licenses, permits, or other regulatory review. The calculated catch-up adjustment is based on the percent change between the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October in the year of the previous adjustment (or in the year of establishment, if no adjustment has been made) and the October 2015 CPI–U.

The Bureau issued an interim final rule providing for calculated catch-up adjustments on June 30, 2016 (81 FR 42478), with an effective date of August 1, 2016, and requesting comments post-promulgation. The Bureau issued a final rule affirming the catch-up adjustments set forth in the interim final rule on December 2, 2016 (81 FR 86953). The Bureau then issued a final rule making the next scheduled annual inflation adjustment for 2017 on January 23, 2017 (82 FR 7649), for 2018 on February 6, 2018 (83 FR 5192), for 2019 on April 15, 2019 (84 FR 15098), for 2020 on February 19, 2020 (85 FR 9366), for 2021 on January 28, 2021 (86 FR 7344), for 2022 on March 9, 2022 (87 FR 13153), and for 2023 on March 2, 2023 (88 FR 13018).

II. Calculation of 2024 Annual Adjustments

OMB recently issued guidance to assist Federal agencies in implementing the annual adjustments required by the Act, which agencies must complete by January 15, 2024. *See* December 19, 2023, Memorandum for the Heads of Executive Departments and Agencies, from Shalanda D. Young, Director, Office of Management and Budget, re: *Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (M–24–07). The guidance states that the cost-of-living adjustment multiplier for 2024, based on the CPI–U for the month of October 2023, not seasonally adjusted, is 1.03241. The annual inflation adjustments are based on the percent change between the October CPI–U preceding the date of the adjustment, and the prior year's October CPI–U. For 2024, OMB explains, October 2023 CPI–U (307.671)/October 2022 CPI–U (298.012) = 1.03241. The guidance instructs agencies to complete the 2024 annual adjustment by multiplying each applicable penalty by the multiplier 1.03241 and rounding to the nearest dollar. Further, agencies should apply the multiplier to the most recent penalty amount that includes the initial catch-up adjustment required by the Act.

The annual adjustment applies to all civil monetary penalties with a dollar amount that are subject to the Act. This final rule adjusts the following civil monetary penalties contained in the Bureau's regulations for 2024 by multiplying 1.03241 by each penalty amount as updated by the adjustment made in the prior year (2023):

CFR citation	Description of penalty	Current penalty including catchup adjustment	Annual adjustment (multiplier)	Adjusted penalty for 2024
25 CFR 140.3	Penalty for trading in Indian country without a license	$1,566	1.03241	$1,617
25 CFR 141.50	Penalty for trading on Navajo, Hopi, or Zuni reservations without a license.	1,566	1.03241	1,617
25 CFR 211.55	Penalty for violation of leases of tribal land for mineral development, violation of part 211, or failure to comply with a notice of noncompliance or cessation order.	1,882	1.03241	1,943
25 CFR 213.37	Penalty for failure of lessee to comply with lease of restricted lands of members of the Five Civilized Tribes in Oklahoma for mining, operating regulations at part 213, or orders.	1,566	1.03241	1,617
25 CFR 225.37	Penalty for violation of minerals agreement, regulations at part 225, other applicable laws or regulations, or failure to comply with a notice of noncompliance or cessation order.	1,992	1.03241	2,057
25 CFR 226.42	Penalty for violation of lease of Osage reservation lands for oil and gas mining or regulations at part 226, or noncompliance with the Superintendent's order.	1,117	1.03241	1,153
25 CFR 226.43(a)	Penalty per day for failure to obtain permission to start operations.	111	1.03241	115
25 CFR 226.43(b)	Penalty per day for failure to file records	111	1.03241	115
25 CFR 226.43(c)	Penalty for each well and tank battery for failure to mark wells and tank batteries.	111	1.03241	115
25 CFR 226.43(d)	Penalty each day after operations are commenced for failure to construct and maintain pits.	111	1.03241	115
25 CFR 226.43(e)	Penalty for failure to comply with requirements regarding valve or other approved controlling device.	223	1.03241	230
25 CFR 226.43(f)	Penalty for failure to notify Superintendent before drilling, redrilling, deepening, plugging, or abandoning any well.	446	1.03241	460
25 CFR 226.43(g)	Penalty per day for failure to properly care for and dispose of deleterious fluids.	1,117	1.03241	1,153
25 CFR 226.43(h)	Penalty per day for failure to file plugging and other required reports.	111	1.03241	115
25 CFR 227.24	Penalty for failure of lessee of certain lands in Wind River Indian Reservation, Wyoming, for oil and gas mining to comply with lease provisions, operating regulations, regulations at part 227, or orders.	1,566	1.03241	1,617
25 CFR 243.8	Penalty for non-Native transferees of live Alaskan reindeer who violates part 243, takes reindeer without a permit, or fails to abide by permit terms.	7,383	1.03241	7,622
25 CFR 249.6(b)	Penalty for fishing in violation of regulations at part 249 (Off-Reservation Treaty Fishing).	1,566	1.03241	1,617
25 CFR 273.182(a)	Penalty for misusing funds or property by officer, director, agent, or employee of, or connected with, any contractor or subcontractor.	1,000	1.03241	1,032

CFR citation	Description of penalty	Current penalty including catchup adjustment	Annual adjustment (multiplier)	Adjusted penalty for 2024
25 CFR 273.182(b)	Penalty for misusing funds or property by officer, director, agent, or employee of, or connected with, any contractor or subcontractor.	10,000	1.03241	10,324
25 CFR 700.725	Penalty per head per day for each cow, bull, horse, mule, or donkey in trespass.	1	1.03241	1 and 3¢
25 CFR 700.725	Penalty per head per day for each sheep or goat in trespass.	25¢	1.03241	26¢

Consistent with the Act, the adjusted penalty levels for 2024 will take effect immediately upon the effective date of the adjustment. The adjusted penalty levels for 2024 will apply to penalties assessed after that date including, if consistent with agency policy, assessments associated with violations that occurred on or after November 2, 2015 (the date of the Act). The Act does not, however, change previously assessed penalties that the Bureau is collecting or has collected. Nor does the Act change an agency's existing statutory authorities to adjust penalties.

III. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866, 14094 and 13563)

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

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

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov* by searching for ''RIN 1076–AF75.''

B. Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under Executive Order 12866.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). The RFA does not apply to this final rule because the Bureau is not required to publish a proposed rule for the reasons explained below in section III.M below.

D. Congressional Review Act (CRA)

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

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

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

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

E. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

F. Takings (E.O. 12630)

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

G. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

H. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule: (a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

I. Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

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

J. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

K. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative nature. For further information see 43 CFR 46.210(i). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

L. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

M. Clarity of This Regulation

We are required by E.O. 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **FOR FURTHER INFORMATION CONTACT** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

N. Administrative Procedure Act

The Act requires agencies to publish annual inflation adjustments by no later than January 15, of each year, notwithstanding section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). OMB has interpreted this direction to mean that the usual APA public procedure for rulemaking—which includes public notice of a proposed rule, an opportunity for public comment, and a delay in the effective date of a final rule—is not required when agencies issue regulations to implement the annual adjustments to civil penalties that the Act requires. Accordingly, we are issuing the annual adjustments as a final rule without prior notice or an opportunity for comment and with an effective date immediately upon publication in the **Federal Register**.

Section 553(b) of the APA provides that, when an agency for good cause finds that ''notice and public procedure . . . are impracticable, unnecessary, or contrary to the public interest,'' the agency may issue a rule without providing notice and an opportunity for prior public comment. Under section 553(b), the Bureau finds that there is good cause to promulgate this rule without first providing for public comment. It would not be possible to meet the deadlines imposed by the Act if we were to first publish a proposed rule, allow the public sufficient time to submit comments, analyze the comments, and publish a final rule. Also, the Bureau is promulgating this final rule to implement the statutory directive in the Act, which requires agencies to publish a final rule and to update the civil penalty amounts by applying a specified formula. The Bureau has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Accordingly, it would serve no purpose to provide an opportunity for public comment on this rule prior to promulgation. Thus, providing for notice and public comment is impracticable and unnecessary.

Furthermore, the Bureau finds under section 553(d)(3) of the APA that good cause exists to make this final rule effective immediately upon publication in the **Federal Register**. In the Act, Congress expressly required Federal agencies to publish annual inflation adjustments to civil penalties in the **Federal Register** by January 15 of each year, notwithstanding section 553 of the APA. Under the statutory framework and OMB guidance, the new penalty levels take effect immediately upon the effective date of the adjustment. The statutory deadline does not allow time to delay this rule's effective date beyond publication. Moreover, an effective date after January 15 would delay application of the new penalty levels, contrary to Congress's intent.

List of Subjects

25 CFR Part 140

Business and industry, Indians, Penalties.

25 CFR Part 141

Business and industry, Credit, Indians—business and finance, Penalties.

25 CFR Part 211

Geothermal energy, Indians—lands, Mineral resources, Mines, Oil and gas exploration, Reporting and recordkeeping requirements.

25 CFR Part 213

Indians—lands, Mineral resources, Mines, Oil and gas exploration, Reporting and recordkeeping requirements.

25 CFR Part 225

Geothermal energy, Indians—lands, Mineral resources, Mines, Oil and gas exploration, Penalties, Reporting and recordkeeping requirements, Surety bonds.

25 CFR Part 226

Indians—lands.

25 CFR Part 227

Indians—lands, Mineral resources, Mines, Oil and gas exploration, Reporting and recordkeeping requirements.

25 CFR Part 243

Indians, Livestock.

25 CFR Part 249

Fishing, Indians.

25 CFR Part 273

Elementary and secondary education, Grant programs—Indians, Indians—education, Schools.

25 CFR Part 700

Indians, Indians—lands, Livestock.

For the reasons given in the preamble, the Department of the Interior amends chapter I of title 25 Code of Federal Regulations as follows.

Title 25—Indians

Chapter I—Bureau of Indian Affairs, Department of the Interior

PART 140—LICENSED INDIAN TRADERS

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

Authority: 5 U.S.C. 301; 18 U.S.C. 437; 25 U.S.C. 2, 9, 261, 262, 264; sec. 5, 19 Stat. 200, sec. 1, 31 Stat. 1066, as amended; and sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

§ 140.3 [Amended]

■ 2. In § 140.3, remove ''$1,566'' and add in its place ''$1,617'' and remove

the parenthetical authority citation at the end of the section.

PART 141—BUSINESS PRACTICES ON THE NAVAJO, HOPI AND ZUNI RESERVATIONS

■ 3. The authority citation for part 141 continues to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2 and 9; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

§ 141.50 [Amended]

■ 4. In § 141.50, remove ''$1,566'' and add in its place ''$1,617''.

PART 211—LEASING OF TRIBAL LANDS FOR MINERAL DEVELOPMENT

■ 5. The authority citation for part 211 continues to read as follows:

Authority: Sec. 4, Act of May 11, 1938 (52 Stat. 347); Act of August 1, 1956 (70 Stat. 744); 25 U.S.C. 396a–g; 25 U.S.C. 2 and 9; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

§ 211.55 [Amended]

■ 6. In § 211.55(a), remove ''$1,882'' and add in its place ''$1,943''.

PART 213—LEASING OF RESTRICTED LANDS FOR MEMBERS OF FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

■ 7. The authority citation for part 213 continues to read as follows:

Authority: Sec. 2, 35 Stat. 312; sec. 18, 41 Stat. 426; sec. 1, 45 Stat. 495; sec. 1, 47 Stat. 777; 25 U.S.C. 356; and Sec. 701, Pub. L. 114–74, 129 Stat. 599. Interpret or apply secs. 3, 11, 35 Stat. 313, 316; sec. 8, 47 Stat. 779, unless otherwise noted.

§ 213.37 [Amended]

■ 8. In § 213.37, remove ''$1,566'' and add in its place ''$1,617''.

PART 225—OIL AND GAS, GEOTHERMAL, AND SOLID MINERALS AGREEMENTS

■ 9. The authority citation for part 225 continues to read as follows:

Authority: 25 U.S.C. 2, 9, and 2101–2108; and Sec. 701, Pub. L. 114–74, 129 Stat. 599.

§ 225.37 [Amended]

■ 10. In § 225.37(a), remove ''$1,992'' and add in its place ''$2,057''.

PART 226—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

■ 11. The authority citation for part 226 continues to read as follows:

Authority: Sec. 3, 34 Stat. 543; secs. 1, 2, 45 Stat. 1478; sec. 3, 52 Stat. 1034, 1035; sec. 2(a), 92 Stat. 1660; and Sec. 701, Pub. L. 114–74, 129 Stat. 599.

§ 226.42 [Amended]

■ 12. In § 226.42, remove ''$1,117'' and add in its place ''$1,153''.

§ 226.43 [Amended]

■ 13. In § 226.43:
■ a. Remove ''$111'' wherever it appears and add ''$115'' in its place.
■ b. In paragraph (e), remove ''$223'' and add in its place ''$230''.
■ c. In paragraph (f), remove ''$446'' and add in its place ''$460''.
■ d. In paragraph (g), remove ''$1,117'' and add in its place ''$1,153''.

PART 227—LEASING OF CERTAIN LANDS IN WIND RIVER INDIAN RESERVATION, WYOMING, FOR OIL AND GAS MINING

■ 14. The authority citation for part 227 continues to read as follows:

Authority: Sec. 1, 39 Stat. 519; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

§ 227.24 [Amended]

■ 15. In § 227.24, remove ''$1,566'' and add in its place ''$1,617''.

PART 243—REINDEER IN ALASKA

■ 16. The authority citation for part 243 continues to read as follows:

Authority: Sec. 12, 50 Stat. 902; 25 U.S.C. 500K; and Sec. 701, Pub. L. 114–74, 129 Stat. 599.

§ 243.8 [Amended]

■ 17. In § 243.8(a) introductory text, remove ''$7,383'' and add in its place ''$7,622''.

PART 249—OFF-RESERVATION TREATY FISHING

■ 18. The authority citation for part 249 continues to read as follows:

Authority: 25 U.S.C. 2, and 9; 5 U.S.C. 301; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

§ 249.6 [Amended]

■ 19. In § 249.6(b), remove ''$1,566'' and add in its place ''$1,617''.

PART 273—EDUCATION CONTRACTS UNDER JOHNSON-O'MALLEY ACT

■ 20. The authority citation for part 273 continues to read as follows:

Authority: Secs. 201–203, Pub. L. 93–638, 88 Stat. 2203, 2213–2214 (25 U.S.C. 455–457), unless otherwise noted.

§ 273.182 [Amended]

■ 21. In § 273.182(a) remove ''$1,000'' and add in its place ''$1,032''.

■ 22. In § 273.182(b) remove ''$10,000'' and add in its place ''$10,324''.

PART 700—COMMISSION OPERATIONS AND RELOCATION PROCEDURES

■ 23. The authority citation for part 700 continues to read as follows:

Authority: Pub. L. 99–590; Pub. L. 93–531, 88 Stat. 1712 as amended by Pub. L. 96–305, 94 Stat. 929, Pub. L. 100–666, 102 Stat. 3929 (25 U.S.C. 640d).

§ 700.725 [Amended]

■ 24. In § 700.725, remove ''$1'' and add in its place ''$1 and 3¢''.

■ 25. In § 700.725, remove ''25¢'' and add in its place ''26¢''.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–05275 Filed 3–12–24; 8:45 am]

BILLING CODE 4337–15–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the asset allocation regulation for plans with valuation dates in the second quarter of 2024. These interest assumptions are used for valuing benefits under terminating single-employer plans and for other purposes.

DATES: Effective April 1, 2024.

FOR FURTHER INFORMATION CONTACT: Monica O'Donnell (*odonnell.monica@pbgc.gov*), Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101, 202–229–8706. If you are deaf or hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions—including interest assumptions—for valuing benefits under terminating single-employer plans covered by title IV of the Employee

Retirement Income Security Act of 1974 (ERISA). The interest assumptions in the regulation are also published on PBGC's website (*www.pbgc.gov*).

PBGC uses the interest assumptions in appendix B to part 4044 (''Interest Rates Used to Value Benefits'') to determine the present value of annuities in an involuntary or distress termination of a single-employer plan under the asset allocation regulation. The assumptions are also used to determine the value of multiemployer plan benefits and certain assets when a plan terminates by mass withdrawal in accordance with PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281).

The second quarter 2024 interest assumptions will be 5.50 percent for the first 20 years following the valuation date and 4.83 percent thereafter. In comparison with the interest assumptions in effect for the first quarter of 2024, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), an increase of 0.05 percent in the select rate, and a decrease of 0.39 percent in the ultimate rate (the final rate).

Need for Immediate Guidance

PBGC has determined that notice of, and public comment on, this rule are impracticable, unnecessary, and contrary to the public interest. PBGC routinely updates the interest assumptions in appendix B of the asset allocation regulation each quarter so that they are available to value benefits. Accordingly, PBGC finds that the public interest is best served by issuing this rule expeditiously, without an opportunity for notice and comment, and that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication to allow the use of the proper assumptions to estimate the value of plan benefits for plans with valuation dates early in the second quarter of 2024.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. In appendix B to part 4044, an entry for ''April–June 2024'' is added at the end of the table to read as follows:

Appendix B to Part 4044—Interest Rates Used To Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
April–June 2024	0.0550	1–20	0.0483	>20	N/A	N/A

Issued in Washington, DC, by

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2024–05249 Filed 3–12–24; 8:45 am]

BILLING CODE 7709–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 23–406; RM–11969; DA 24–199; FR ID 207515]

Television Broadcasting Services Greenville, South Carolina

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On November 27, 2023, the Media Bureau, Video Division (Bureau) issued a Notice of Proposed Rulemaking (NPRM) in response to a petition for rulemaking filed by Carolina Christian Broadcasting, Inc. (Petitioner), the licensee of WGGS–TV (Station or WGGS), channel 2, Greenville, South Carolina (Greenville), requesting the substitution of channel 29 for channel 2 at Greenville in the Table of TV Allotments. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends FCC regulations to substitute channel 29 for channel 2 at Greenville.

DATES: Effective April 12, 2024.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or *Joyce.Bernstein@fcc.gov*.

SUPPLEMENTARY INFORMATION: The proposed rule was published at 88 FR 84771 on December 6, 2023. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel 29. No other comments were filed.

The Bureau believes the public interest would be served by substituting channel 29 for channel 2 at Greenville. Petitioner states that its proposed channel substitution would serve the public interest by resolving reception challenges currently experienced by viewers in the WGGS service area, and substantially improving access to the Station's programming. The Petitioner notes that the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service, including a large variability in the performance of indoor antennas available to viewers, with most antennas performing very poorly on VHF channels. The Petitioner proposes to operate the Station on channel 29 with a 3-node Distributed Transmission System (DTS) facility, and all viewers within the Station's community of license will continue to be served by the Station. An analysis using the Commission's TVStudy software indicates that the Station's move to channel 29 would result in a loss of service to 946,964 persons, mostly located around the edge of the channel 2 noise limited service contour (NLSC). All but 417 persons of those persons, however, would remain well-served by continuing to receive at least five full power or Class A stations, and those 417 persons would continue to receive service from at least four such stations, a number of persons that the Commission has found to be de minimis.

As proposed, channel 29 can be substituted for channel 2 at Greenville in compliance with the principal community coverage requirements of section 73.625(a) of the rules, at coordinates 34°56′26.4″ N and 82°24′40.4″ W. Although the Petitioner's proposal would result in a loss of programming to a number of viewers on the fringes of the Station's NLSC, all but a de minimis number of viewers will remain well-served and we conclude that the overall benefits of the proposed channel change in resolving reception issues outweighs any possible harm to the public interest.

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 23–406; RM–11969; DA 24–199, adopted March 4, 2024, and released March 4, 2024. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

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

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rule

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

PART 73—RADIO BROADCAST SERVICE

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

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

■ 2. In § 73.622, in paragraph (j), amend the Table of TV Allotments, under South Carolina, by revising the entry for Greenville to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
South Carolina	
* * * * *	
Greenville	*8, 17, 29, 30
* * * * *	

[FR Doc. 2024–05307 Filed 3–12–24; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 89, No. 50
Wednesday, March 13, 2024

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

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0191]

RIN 1625–AA00

Safety Zone; Inner Harbor, Baltimore MD

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a temporary safety zone for certain waters of the Inner Harbor of Baltimore, MD, where Maryland Fleet Week and Flyover Baltimore 2024 will take place from June 12 to 18, 2024. The safety zone would protect personnel, vessels, and the marine environment from potential hazards during multi-agency helicopter rescue demonstration. It would be enforced thirty minutes prior to a demonstration and lifted at its conclusion. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Maryland-National Capital Region, or a designated representative.

DATES: Comments must be received by the Coast Guard on or before April 7, 2024.

ADDRESSES: You may submit comments identified by docket number USCG–2024–0191 using the Federal Decision-Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Charles Bullock, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Charles.d.bullock@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The Coast Guard is proposing to establish a safety zone from 8 a.m. on June 12, 2024, through 6 p.m. on June 18, 2024. The zone would be intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the air and rescue swimmer demonstrations. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. We invite your comments on this proposed rulemaking.

III. Discussion of Proposed Rule

The zone would be enforced beginning thirty minutes prior to a demonstration and ending at the conclusion of that demonstration. It would cover all navigable waters of the Inner Harbor, encompassed by a line connecting the following points: beginning at Inner Harbor Pier 6 at position latitude 39°16′59″ N, longitude 076°36′12″ W, thence south to the Harborview Towers pier at latitude 39°16′41″ N, longitude 076°36′12″ W, thence northerly and easterly along the shoreline to and terminating at the point of origin located in Baltimore, MD. The dimensions of the safety zone are approximately 2,000 yards in length and 500 yards in width.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the location and duration of the safety zone. This safety zone will be enforced 30 minutes prior to a demonstration and will be lifted at the conclusion of each demonstration. We anticipate that there will be no vessels that are unable to conduct business. Commercial fishing vessels and towing vessels do not operate in the Inner Harbor and would not be impacted by this rulemaking. Although excursion vessels and water taxis do operate there, the impact to these waterway users is minimized because of the extensive outreach that has been conducted for the Maryland Fleet Week and Flyover Baltimore 2024 and the involvement of these vessel managers in the event planning process. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

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

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

deconflicted ferry boat schedules and other commercial vessels during the planning process for these events.

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves an intermittent safety zone lasting 30 minutes at a time, that would prohibit entry the above-mentioned safety zone. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. 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 promulgation of this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2024–0191 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

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

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

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0712 to read as follows:

§ 165.T05–0712 Safety Zone; Inner Harbor, Baltimore, MD.

(a) *Location.* The following area is a safety zone: All navigable waters of the Inner Harbor, encompassed by a line connecting the following points: beginning at Inner Harbor Pier 6 at position latitude 39°16′59″ N, longitude 076°36′12″ W, thence south to the Harborview Towers pier at latitude 39°16′41″ N, longitude 076°36′12″ W, thence northerly and easterly along the shoreline to and terminating at the point of origin, located in Baltimore, MD. These coordinates are based on datum NAD 1983.

(b) *Definitions.* As used in this section—

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (a) of this section.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz).

(3) Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced as needed from June 12, 2024, to June 18, 2024.

Dated: March 8, 2024.

David E. O'Connell,

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

[FR Doc. 2024–05339 Filed 3–12–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 240307–0074]

RTID 0648–XD634

Pacific Halibut Fisheries of the West Coast; Management Measures for the 2024 Area 2A Pacific Halibut Directed Commercial Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement fishing periods and fishing period limits for the 2024 non-tribal directed commercial Pacific halibut fishery that operates south of Point Chehalis, WA, (lat. 46°53.30′ N) in the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. The proposed action includes two 58-hour fishing periods. The first fishing period would begin at 8 a.m. Pacific Daylight Time (PDT) on June 25, 2024, and close at 6 p.m. PDT on June 27, 2024. The second fishing period would start at 8 a.m. PDT on July 9, 2024, and close at 6 p.m. PDT on July 11, 2024. NMFS is also proposing four fishing period limits (*i.e.,* vessel catch limits) across eight vessel size classes for both fishing periods. These actions are intended to conserve Pacific halibut and provide fishing opportunity where available.

DATES: Comments must be received by April 12, 2024.

ADDRESSES: A plain language summary of this proposed rule is available at *https://www.regulations.gov/docket/NOAA-NMFS-2024-0031.* You may submit comments on this document, identified by NOAA–NMFS–2024–0031, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and type NOAA–NMFS–2024–0031 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Docket: This proposed rule is accessible at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the NMFS West Coast Region Pacific Halibut Directed Commercial Fishery website at *https://www.fisheries.noaa.gov/action/2024-pacific-halibut-directed-commercial-fishery* and at the Council's website at *https://www.pcouncil.org.* Other comments received may be accessed through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Heather Fitch, West Coast Region, NMFS, (360) 320–6549, *heather.fitch@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Northern Pacific Halibut Act of 1982 (16 U.S.C. 773–773k) (Halibut Act) gives the Secretary of Commerce the responsibility of implementing the provisions of the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (March 29, 1979).

As provided in the Halibut Act at 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, regulations recommended by the International Pacific Halibut Commission (IPHC) in accordance with the Convention. Following acceptance by the Secretary of State, the annual management measures promulgated by the IPHC are published in the **Federal Register** to provide notice of their immediate regulatory effectiveness and to inform persons subject to the regulations of their restrictions and requirements (50 CFR 300.62).

The Halibut Act also provides that Regional Fishery Management Councils may develop, and the Secretary of Commerce may implement, regulations governing Pacific halibut fishing in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations (16 U.S.C. 773c(c)). The Pacific Fishery Management Council

(Council) developed a catch sharing plan guiding the allocation of halibut across the various sectors for the IPHC's regulatory Area 2A.

Fishery Allocation

At its annual meeting held January 22–26, 2024, the IPHC adopted an Area 2A catch limit, called a fishery constant exploitation yield (FCEY), of 1.47 million pounds (667 metric tons (mt)), net weight (*i.e.,* the weight of Pacific halibut that is without gills and entrails, head-off, washed, and without ice and slime) of Pacific halibut. Upon acceptance by the Secretary of State, with concurrence from the Secretary of Commerce, the fishery allocations adopted by the IPHC will be published in the **Federal Register**, in accordance with 50 CFR 300.62. The FCEY was derived from the total constant exploitation yield (TCEY) of 1.65 million pounds (748 mt), net weight, for Area 2A, which includes commercial discards and bycatch projections calculated using a formula developed by the IPHC. Based on the FCEY for Area 2A and the allocation framework in the Council's catch sharing plan, the non-tribal directed commercial fishing allocation is 249,338 pounds (113 mt), net weight.

Fishing Periods

Fishing periods, often referred to as fishery openers, are the time during the annual commercial halibut season when fishing for non-tribal directed commercial Pacific halibut in Area 2A is allowed. At its November 2023 meeting, the Council discussed the 2024 directed commercial season structure and recommended that NMFS establish fishing periods similar to those in the previous year. Specifically, the Council recommended that the directed commercial fishery operate as a series of 3-day openings, with the first fishing period beginning at 8 a.m. Pacific Daylight Time (PDT) on the fourth Tuesday in June and ending at 6 p.m. PDT on Thursday of that week, and the second fishing period occurring 2 weeks later. The Council also recommended that if there is a third fishing period, it should occur no earlier than 3 weeks after the second fishing period, and that any subsequent fishing periods would occur as soon as possible. Based on the Council's recommendations, NMFS is proposing to open the 2024 directed commercial fishery for 58 hours, beginning on June 25, 2024, at 8 a.m. PDT and closing on June 27, 2024, at 6 p.m. PDT. The second fishing period would occur 2 weeks later, beginning on July 9, 2024, at 8 a.m. PDT and closing on July 11, 2024, at 6 p.m. PDT.

Following the initial two fishing periods, NMFS will assess fishery harvest to date and determine if the fishery has attained the directed commercial allocation. If harvest estimates indicate the allocation has not been reached, NMFS may determine that subsequent fishing period(s) are necessary to attain the allocation. If a third fishing period occurs, it would occur no sooner than 3 weeks after the second fishing period. A third fishing period, and any subsequent fishing periods would be announced in the **Federal Register** through inseason action.

Fishing Period Limits

A fishing period limit, also called a vessel catch limit, is the maximum amount of Pacific halibut that may be retained and landed by a vessel during one fishing period. Each vessel may retain no more than the current fishing period limit of Pacific halibut for its vessel class, which is determined by vessel length. NMFS is proposing directed commercial fishing period limits, shown in table 1 below, based on the 2024 directed fishery allocation, the number of permits issued by vessel size class, and participation and catch rates from prior years.

For the 2024 fishing season, NMFS received 185 applications across 8 vessel size classes (A–H). Based on this number of permits and past fishery participation, NMFS anticipates similar vessel participation as has occurred in previous years. Therefore, NMFS is proposing that fishing period limits be grouped the same way as was done in previous years.

Although the directed commercial allocation for 2024 is similar to the allocations for the previous 3 years, the average catch per vessel increased in 2023. Therefore, NMFS is proposing reduced fishing period limits compared to the previous 3 years. These fishing period catch limits are intended to ensure that the Area 2A directed commercial fishery does not exceed its allocation, while also providing fair and equitable access across participants to an attainable amount of harvest.

If NMFS determines that more than two fishing periods are warranted, NMFS will set new fishing period limits and will set the fishing period limits for subsequent fishing periods equal across all vessel classes through inseason action.

2024 Non-Tribal Directed Commercial Fishery Fishing Periods and Fishing Period Limits

The Area 2A non-tribal directed commercial fishery, which occurs south of Point Chehalis, WA, (lat. 46°53.30′ N) would open on June 25, 2024, at 8 a.m. PDT and close on June 27, 2024, at 6 p.m. PDT and would re-open July 9, 2024, at 8 a.m. PDT and close on July 11, 2024, at 6 p.m. PDT. The fishery may be adjusted inseason consistent with 50 CFR 300.63.

TABLE 1—FISHING PERIOD LIMITS BY SIZE CLASS FOR THE 2024 FIRST AND SECOND FISHING PERIODS OF THE AREA 2A PACIFIC HALIBUT NON-TRIBAL DIRECTED COMMERCIAL FISHERY

Vessel class	Length range in feet (meters)	Fishing period limit in pounds (mt)
A	1–25 (0.3–7.8)	1,800 (0.8164)
B	26–30 (7.9–9.3)	1,800 (0.8164)
C	31–35 (9.4–10.9)	1,800 (0.8164)
D	36–40 (11.0–12.4)	3,000 (1.361)
E	41–45 (12.5–13.9)	3,000 (1.361)
F	46–50 (14.0–15.4)	3,800 (1.724)
G	51–55 (15.5–16.9)	3,800 (1.724)
H	56+ (17.0+)	4,500 (2.041)

Note: Fishing period limits are in dressed weight (head-on, with ice and slime).

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 Halibut Act (16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. Such regulations shall only be implemented with the approval of the Secretary.

This proposed rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

For Regulatory Flexibility Act (RFA) purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System code 114111) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. The entities that would be affected by the proposed action are those vessels that harvest Pacific halibut as part of the non-tribal directed commercial fishery and are all considered small businesses under the above size standards.

This proposed rule, if adopted, would establish the 2024 Area 2A non-tribal directed commercial fishery fishing periods and fishing period limits.

There are no large entities involved in Pacific halibut fisheries off the West Coast. In 2023, NMFS issued 148 licenses to the commercial fishing fleet for the Area 2A non-tribal directed commercial fishery. Of those 148 vessels that obtained licenses, 50 percent (74 vessels) participated in the fishery. NMFS expects that a similar proportion of vessels will participate in the fishery this year and may be affected by these regulations. Cost data for the harvesting operations of non-tribal commercial halibut vessels is limited or unavailable. However, for 2023, the non-tribal directed allocation was 257,819 pounds (117 mt), of which approximately 259,226 pounds (118 mt) of Pacific halibut were harvested and resulted in a total fishery ex-vessel value of approximately $2.36 million. Therefore, NMFS considers all vessels affected by this action to be small entities.

Since this action will only impact commercial fishing vessels, which in the Pacific halibut fishery are small entities, none of these changes will have a disproportionately negative effect on small entities versus large entities. Because each affected vessel is a small business, this proposed rule is considered to equally affect all of these small entities in the same manner. Therefore, this rule, if adopted, would not create disproportionate costs between small and large vessels/businesses.

The major effect of Pacific halibut management on small entities is from the Area 2A allocation decided by the IPHC; a decision independent from this proposed action. This action proposes fishing periods and fishing period limits for the 2024 non-tribal directed commercial fishery consistent with recommendations from the Council to provide commercial harvest opportunities under the allocations that result from the Area 2A catch limit determined by the IPHC. Profitability is largely based on the total Area 2A allocation decided by the IPHC, with subarea allocations determined based on the allocation formulae in the Council's catch sharing plan. Therefore, the proposed rule, if adopted, is unlikely to affect the profitability of the commercial fishery.

The Area 2A non-tribal directed commercial fishery allocation for 2024 is 249,338 pounds (113 mt), net weight, which is 3 percent lower than in 2023. This proposed rule, if adopted, is unlikely to affect overall participation in the directed commercial fishery since this action maintains an allocation similar to previous years. Profitability is dependent on the total amount of allocation available and market forces independent of this action. It is therefore highly unlikely that this proposed action would limit the fleet's potential profitability from catching halibut compared to last season or recent catch levels, as fishing periods and fishing period catch limits for 2024 are set using similar considerations as in previous years. Accordingly, vessel income from fishing is not expected to be altered as a result of this rule as it compares to recent catches in the fishery, including under the previous season's regulations.

Based on the disproportionality and profitability analysis above, the proposed action, if adopted, will not have adverse or disproportional economic impact on these small business entities. As a result, an Initial Regulatory Flexibility Analysis is not required, and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 773–773k.

Dated: March 7, 2024.

Samuel D. Rauch, III,

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

[FR Doc. 2024–05289 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 89, No. 50
Wednesday, March 13, 2024

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 12, 2024 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Institute of Food and Agriculture

OMB Control Number: 0524–0048.

Summary of Collection: The United States Department of Agriculture (USDA), National Institute of Food and Agriculture (NIFA) administer several competitive, peer-reviewed research, education, and extension programs, under which awards of high-priority are made. These programs are authorized pursuant to the authorities contained in the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (*7 U.S.C. 3101*), the Smith-Lever Act of 1914, as amended (*Pub. L. 107–293,* 2002) and other legislative authorities. NIFA also administers several formula funded research programs. The programs are authorized pursuant to the authorities contained in the McIntire-Stennis Cooperative Forestry Research Act of October 10, 1962 (*16 U.S.C. 582a–582a–7*) (McIntire-Stennis Act); the Hatch Act of 1887, as amended (*7 U.S.C. 361a–i*) (Hatch Act); Section 1445 of Public Law 95–113, the Food and Agriculture Act of 1977, as amended (*7 U.S.C. 3222*) (Pub. L. 95–113); Section 1433 of Subtitle E (Sections 1429–1439); Title XIV of Public Law 95–113, as amended (*7 U.S.C. 3191–3201*) (Pub. L. 95–113); the Smith-Lever Act; and the Renewable Resources Extension Act. Each formula funded program is also subject to requirements, which were revised in March 2000, and set forth in the Administrative Manual for the McIntire-Stennis Cooperative Forestry Research Program, the Administrative Manual for the Hatch Research Program, the Administrative Manual for the Evans-Allen Cooperative Agricultural Research Program, and the Administrative Manual for the Continuing Animal Health and Disease Research Program.

Need and Use of the Information: The collection of information is necessary in order to provide descriptive information regarding individual research, education, and integrated activities, to document expenditures and staff support for the activities, and to monitor the progress and impact of such activities. The information is collected primarily via the internet through a website that may be accessed via the NIFS Reporting Portal. The information provided helps users to keep abreast of the latest developments in utilization in specific target areas, plan for future activities; plan for resource allocation to research and education programs; avoid costly duplication of effort; aid in coordination of research and education efforts addressing similar problems in different location; and aid researchers and project directors in establishing valuable contacts with the agricultural community.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Individuals or household; Federal Government; State, Local or Tribal Government.

Number of Respondents: 740.

Frequency of Responses: Reporting: Once per request.

Total Burden Hours: 62,415.

Rachelle Ragland-Greene,

Acting Departmental Information Collection Clearance Officer.

[FR Doc. 2024–05314 Filed 3–12–24; 8:45 am]

BILLING CODE 3410–09–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arizona Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of virtual web briefing.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a web briefing of the Arizona Advisory Committee (Committee) to the U.S. Commission on Civil Right will convene via *ZoomGov* on Tuesday, March 26, 2024, from 12:00 p.m.–2:00 p.m. Arizona Time. The purpose of the web briefing is to collect testimony related to racial and ethnic disparities in pediatric healthcare in the state.

DATES: The web briefing will take place on:

Tuesday, March 26, 2024, from 12:00 p.m.–2:00 p.m. Arizona Time.

Webinar Zoom Link to Join (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_DH7gnikLTia44fWccVrg7g.

Telephone (Audio Only) Dial: 1–833–435–1820 (US Toll-free); Meeting ID: 160 401 9531.

FOR FURTHER INFORMATION CONTACT: Ana Fortes, DFO, at *afortes@usccr.gov* or (202) 681–0857.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the videoconference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Angelica Trevino, Support Services Specialist, at *atrevino@usccr.gov* at least 10 business days prior to the meeting. Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments can be sent via email to Ana Fortes (DFO) at *afortes@usccr.gov.*

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Arizona Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *atrevino@usccr.gov.*

Agenda

I. Introductory Remarks (12:00–12:10 p.m.)
II. Presentation (12:10–1:10 p.m.)
III. Q & A (1:10–1:35 p.m.)
IV. Public Comment (1:35–1:50 p.m.)
V. Business Meeting (Tentative)
VI. Adjournment (2:00 p.m.)

Dated: March 8, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–05324 Filed 3–12–24; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–10–2024]

Foreign-Trade Zone (FTZ) 183, Notification of Proposed Production Activity; Flextronics America, LLC; (Radio Frequency (RF) Communication Device Testers), Austin, Texas

Flextronics America, LLC submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Austin, Texas within Subzone 183C. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on March 7, 2024.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.* The proposed finished product(s) and material(s)/component(s) would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed finished product is a modular RF communication device tester (duty-free).

The proposed foreign-status materials and components include: rubber seals; rubber bumpers; steel bolts; steel nuts; copper washers; copper cotters and cotter pins; copper screws and bolts; aluminum p-clamps; steel brackets; flat planel display monitors; indicator panels incorporating liquid crystal devices (LCDs); tantalum capacitors; thermistors; flexible printed circuit boards; slide switches; coaxial cable connectors; rack and panel cable connectors; mounted piezoelectric crystal oscillators; dynamic read-write random access (DRAM) integrated circuits; amplifier integrated circuits; modular RF communication device testers; printed circuit assemblies of modular RF communication device testers; and, chassis assemblies of modular RF communication device testers (plastic, steel, and aluminum) (duty rate ranges from duty-free to 3%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is April 22, 2024.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Kolade Osho at *Kolade.Osho@trade.gov.*

Dated: March 7, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–05264 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–880]

Lightweight Thermal Paper From Japan: Rescission of Antidumping Duty Administrative Review; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on lightweight thermal paper (thermal paper) from Japan for the period of review (POR) November 1, 2022, through October 31, 2023.

DATES: Applicable March 13, 2024.

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

SUPPLEMENTARY INFORMATION:

Background

On November 22, 2021, Commerce published in the **Federal Register** the AD order on thermal paper from Japan.[1] On November 2, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order.*[2] On November 30, 2023, Lollicup USA Incorporated (Lollicup USA), a U.S. importer, submitted a timely request that Commerce conduct an administrative review of the *Order* with respect to Nippon Paper Industries Co., Ltd. and Nippon Paper Papylia Co., Ltd. (collectively, Nippon Paper), the

[1] *See Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Antidumping Duty Orders,* 86 FR 66284 (November 22, 2021) (*Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List,* 88 FR 75270 (November 2, 2023).

producer and exporter of Lollicup USA's imports of subject merchandise.[3]

On December 29, 2023, Commerce published in the **Federal Register** a notice of initiation of administrative review with respect to imports of thermal paper exported and/or produced by Nippon Paper, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i).[4] On January 4, 2024, we placed on the record U.S. Customs and Border Protection (CBP) data for entries of thermal paper from Japan during the POR, showing no reviewable POR entries and invited interested parties to comment.[5] No interested party submitted comments to Commerce regarding the CBP data.

Additionally, on February 9, 2024, Commerce notified all interested parties of its intent to rescind the instant review in full because there were no reviewable, suspended entries of subject merchandise by Nippon Paper during the POR and invited interested parties to comment.[6] No interested party submitted comments to Commerce in response to this notice.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an AD order when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.[7] Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate calculated for the review period.[8] Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the AD assessment rate calculated for the review period.[9] As noted above, there were no entries of subject merchandise for Nippon Paper during the POR. Accordingly, in the absence of suspended entries of subject merchandise during the POR, we are hereby rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Assessment

Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: March 7, 2024.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–05265 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See* Lollicup USA's Letter, ''Administrative Review Request,'' dated November 30, 2023. In the underlying investigation, Commerce determined it was appropriate to treat Nippon Paper Industries Co., Ltd. and Nippon Paper Papylia Co. Ltd. as a single entity. *See Thermal Paper from Japan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of the Final Determination, and Extension of Provisional Measures,* 86 FR 26011 (May 12, 2021), and accompanying Preliminary Decision Memorandum at 7 n.2, unchanged in *Thermal Paper from Japan: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 54157 (September 30, 2021). Given the lack of any information to the contrary on the record of this review, we continue to find it is appropriate to treat these companies as a single entity.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 90168 (December 29, 2023).

[5] *See* Memorandum, ''Customs Entry Data from U.S. Customs and Border Protection,'' dated January 4, 2024.

[6] *See* Commerce's Letter, ''Notice of Intent to Rescind Review,'' dated February 9, 2024.

[7] *See, e.g., Dioctyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022,* 88 FR 24758 (April 24, 2023); *see also Certain Carbon and Alloy Steel Cut- to Length Plate from the Federal Republic of Germany: Recission of Antidumping Administrative Review; 2020–2021,* 88 FR 4157 (January 24, 2023).

[8] *See* 19 CFR 351.212(b)(1).

[9] *See* 19 CFR 351.213(d)(3).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket Number: 240305–0070]

Manufacturing USA Institute Competition: AI for Resilient Manufacturing

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

ACTION: Notice of Intent (NOI).

SUMMARY: The Office of Advanced Manufacturing within the National Institute of Standards and Technology, an agency of the U.S. Department of Commerce, intends to announce an open competition for a new Manufacturing USA institute. The expected competition will seek to establish a Manufacturing USA institute focused on the use of Artificial Intelligence to improve resilience of U.S. manufacturing. This NOI is provided to allow potential applicants sufficient time to develop meaningful collaborations among industry, academia, Federal laboratories and state/local government.

FOR FURTHER INFORMATION CONTACT: All inquiries may be directed to Ms. Cheryl Leonard via email to *ManufacturingUSA@nist.gov* or by phone at (301) 975–4350, with a subject line stating: 'AI for Manufacturing Resilience.' NIST will respond to questions received with answers to Frequently Asked Questions (FAQs) posted on the NIST competition website at *https://www.nist.gov/oam/funding-opportunities.*

SUPPLEMENTARY INFORMATION:

Purpose. This Notice serves to announce the U.S. Department of Commerce's intention to initiate a competition to establish a new Manufacturing USA institute to strengthen U.S. industrial capabilities in advanced manufacturing sectors. The new institute will be sponsored by the Department of Commerce (DOC), through the National Institute of Standards and Technology (NIST). For this competition, NIST will solicit proposals for a Manufacturing USA institute to accelerate the use of *artificial intelligence (AI) for resilient manufacturing.*

NIST will broadly compete the new institute, allowing applicants to focus on the use of AI to improve resilience of manufacturing within industries and sectors of national interest. The Manufacturing USA authorizing statute includes in the definition of a

Manufacturing USA institute that an institute has a predominant focus on a manufacturing process, novel, material, enabling technology, supply chain integration methodology or another relevant aspect of advanced manufacturing such as nanotechnology applications, advanced ceramics, photonics and optics, composites, biobased and advanced materials, flexible hybrid technologies, tool development for microelectronics, food manufacturing, superconductors, advanced battery technologies, robotics, advanced sensors, quantum information science, supply chain water optimization, aeronautics and advanced materials, and graphene and graphene commercialization.[1]

The newly awarded AI institute will join a network of 17 existing Manufacturing USA institutes sponsored by the U.S. Departments of Defense, Energy, and Commerce.[2] NIST intends that the new institute will both contribute to and benefit from the expertise within the existing network of institutes. As required by the Manufacturing USA authorizing statute, NIST will ensure that the AI institute to be established will not substantially duplicate the work of the existing network of institutes.[3]

The competition is expected to be announced in early Spring 2024 with a formal announcement on *Grants.gov* as well as on the NIST Office of Advanced Manufacturing website (*www.nist.gov/oam*) and Manufacturing USA website (*https://www.manufacturingusa.com/*).

Note that this NOI for an AI Manufacturing USA institute is separate from any planned solicitations for the Manufacturing USA semiconductor institute funded through the CHIPS Act[4] *and is separate from NIST's U.S. AI Safety Institute (USAISI). Interested parties should monitor https://www.nist.gov/chips/chips-rd-funding-opportunities* for information regarding CHIPS-funded semiconductor institutes, and *https://www.nist.gov/artificial-intelligence/artificial-intelligence-safety-institute* for updates on the USAISI.

Background

Program Background: The Manufacturing USA Program: Manufacturing USA exists to secure U.S. global leadership in advanced manufacturing. The nine federal agencies[5] participating in Manufacturing USA bring a whole-of-government approach to innovation, one that springboards U.S.-based inventions to the forefront of advanced manufacturing technologies, created and utilized by a skilled American workforce.

Each Manufacturing USA institute is a public-private partnership that brings together industry of all sizes, universities and community colleges, federal agencies, and state organizations to accelerate innovation by investing in industrially relevant pre-competitive advanced manufacturing technologies to advance specific technology sectors and develop the current and future workforce in those technologies. Manufacturing USA institutes are tasked to mature advanced manufacturing technologies from laboratory prototypes to industrial readiness, focusing on major industry challenges that can be addressed collaboratively but are generally beyond the reach of individual organizations. Institutes bridge the gap between basic research and commercial product development, provide shared assets allowing access to cutting-edge capabilities and equipment, and create accessible training resources to ensure that students and workers, including rural and underserved populations, have skills needed for careers in advanced manufacturing. Each Manufacturing USA institute also serves as a regional hub of manufacturing innovation, providing the innovation infrastructure to reinforce the competitiveness of the U.S. industrial base while strengthening our national and economic security.

Manufacturing USA institutes may address the full spectrum of advanced manufacturing challenges, such as innovation for manufacturing processes, novel materials, cross cutting enabling technology, supply chain integration methodology and education and workforce development. Manufacturing USA institutes' federal funding catalyzes co-investment from non-federal sources for institute projects, promoting stable and sustainable business models.

Competition Information

Upcoming Manufacturing USA AI Institute Competition: Adoption of AI in manufacturing has the potential to increase productivity and efficiency, increase worker safety, allow for predictive maintenance to reduce or eliminate factory floor downtime, improve quality control and reduce waste and defects. AI adoption has the potential for efficient utilization of other digital technologies in optimizing product design and process flow, and energy management. Furthermore, adoption of AI technologies will also positively impact manufacturing supply chain management and resilience and has potential for scalable implementation of workforce development for all. Through the planned competition, NIST expects to select an applicant team most capable of establishing and leading a Manufacturing USA institute to accelerate the use of AI for strengthening resilience of manufacturing processes for the nation's manufacturers. The resulting institute is expected to integrate expertise in AI, manufacturing and optimization of supply chain networks to strengthen the resilience of domestic manufacturing. The institute will conduct applied R&D projects and establish employer-led sectoral partnerships to develop accessible, effective, scalable training resources and credentialling pathways for the skilled workforce needed to move innovation into industrial practice. The work of the institute will also support the growth of an AI service provision infrastructure that will provide focused AI solutions to manufacturers by leveraging manufacturing data at national scale. Through these initiatives, the work of the institute will boost resilience to the benefit of individual companies and the overall U.S. manufacturing base. NIST anticipates that applicants for this upcoming funding opportunity will be permitted to choose an industrial sector of focus for the proposed institute, or to focus on cross-cutting tools that may be tailored for more than one industrial sector. Regardless of the applicant's choice, applicants will be required to define clear time-bounded deliverables and identify key partners needed to accomplish the work proposed and provide the non-federal co-investment that will be required to match the federal award (see Section 3 below). *Applicants must also define the scope of the new institute to avoid substantive duplication with the existing network of Manufacturing USA institutes.*

It is anticipated that the awardee selected from the upcoming competition will lead the institute partners in activities such as establishing a trusted

[1] 15 U.S.C. 278s(d)(1)(B), as amended. *https://uscode.house.gov/view.xhtml?req=(title:15%20section:278s%20edition:prelim).*

[2] *www.manufacturingusa.com.*

[3] 15 U.S.C. 278s(e)(4)(A), as amended. *https://uscode.house.gov/view.xhtml?req=(title:15%20section:278s%20edition:prelim).*

[4] Title XCIX—Creating Helpful Incentives to Produce Semiconductors for America of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283, often referred to as the CHIPS Act).

[5] The federal agencies engaged in Manufacturing USA are the three sponsoring agencies, U.S. Departments of Commerce, Energy, and Defense, plus the Departments of Agriculture, Education, Health and Human Services, and Labor, NASA, and the National Science Foundation.

manufacturing-centric AI data commons, developing standards for AI risk assessment tools, creating validated and interoperable AI manufacturing and/or supply chain network models, and building shared testbeds to support the integration between software and hardware needed for deployment by U.S manufacturers. The institute will also be expected to support market transition of institute-developed technologies, ultimately supporting technology maturation into scale-up and industry use and to facilitate AI-related education and workforce development partnerships and programs.

NIST expects the institute to achieve time-bound outcomes for technical applications that support manufacturing resilience, such as, but not limited to:

- Accelerating qualification of new production technologies, facilities, or processes;
- Performing predictive maintenance of structures and equipment to eliminate down-time due to equipment failure;
- Optimizing manufacturing processes to reduce resource inputs and quality failures;
- Optimizing working capital to predict inventory needs; and/or;
- Predicting and mitigating risks from manufacturing supply chain network disruptions stemming from factors such as extreme climate events, while increasing visibility of potential domestic suppliers.

NIST intends that applications will be evaluated for merit and for alignment with program purposes and statutory requirements according to the authorizing legislation for Manufacturing USA, 15 U.S.C. 278s, and in 42 U.S.C. 18971, *Expanding opportunities through the Manufacturing USA Program and* 42 U.S.C. 18972, *Promoting domestic production of technologies developed under Manufacturing USA Program.*

Award Information: The U.S. Government intends to enter into a five-year agreement with the possibility of a non-competitive extension for up to an additional two (2) years and provide federal funding of up to $70 million. This funding is to be matched or exceeded by funding from private industry and other non-federal sources, with a required minimum 1:1 cost share. To provide the public with an opportunity to learn more about the solicitation before submitting a proposal, NIST will host a webinar and at least one in-person Proposer's Day. The exact date and location for the webinar and Proposer's Day(s) will be confirmed upon the release of the solicitation, anticipated to occur in early Spring 2024. In addition, a preliminary high-level webinar following the release of this Notice of Intent is planned. NIST also expects to post and update answers to Frequently Asked Questions in support of this NOI and the future competition. Interested applicants should monitor *https://NIST.gov/oam* for updates.

Application Process: NIST plans to use a two-stage process for soliciting applications for this directed-topic Manufacturing USA institute. Concept Papers will be considered in the first stage of competition, and applicants submitting the most meritorious concepts will be invited to submit full proposals in the second stage of the competition. To limit burden on applicants and the Federal Government, only a single concept paper may be submitted from a lead applicant entity. However, entities may be partners on multiple proposals submitted. NIST anticipates that the due date for submission of concept papers will be a minimum of 45 days from the publication of the funding opportunity announcement.

In anticipation of the release of the funding opportunity, potential applicants are encouraged to complete the following preparations required for application submission:

- Ensure that your organization has a Unique Entity Identifier (UIE) with *SAM.gov*. The UIE has replaced the previous Dun and Bradstreet Data Universal Numbering System (DUNS) number. More information may be found at: *https://sam.gov/content/entity-information.*
- Register with the System for Award Management (SAM) at *https://www.sam.gov.* Designating an Electronic Business Point of Contact (EBiz POC) and obtaining a special password called an MPIN are important steps in SAM registration. Please update your SAM registration annually.
- Register for a *Grants.gov* (*http://www.grants.gov/*) account. It is advisable also to go to ''manage subscriptions'' on *Grants.gov* and sign up to receive automatic updates when Amendments to a NOFO are posted.

Disclaimer. This NOI does not constitute a solicitation. No applications may be submitted in response to this NOI. NIST will post a future announcement to Grants.gov that will provide the full requirements for applying for an assistance award. When published, information within the Notice of Funding Opportunity will supersede in its entirety any information provided by this Notice. Any inconsistency between information within this Notice and the expected Notice of Funding Opportunity announcing NIST's AI for Manufacturing Resilience award competition shall be resolved in favor of the Notice of Funding Opportunity.

Authority. Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235, Title VII—Revitalize America Manufacturing Innovation Act of 2014, codified at 15 U.S.C. 278s, as amended.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2024–05228 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD768]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fishery Public Listening Session Regarding the Harpoon Category

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

ACTION: Notice of public meeting.

SUMMARY: NMFS will hold a public meeting to listen to concerns and gather input regarding the Atlantic Tunas Harpoon category fishery. During the meeting, stakeholders and the public may express their thoughts about harpooning practices, including concerns related to fishing activities in proximity to mobile-gear vessels and harpooning during nighttime hours.

DATES: The public meeting will be held on March 28, 2024, from 10 a.m. to 12 p.m. ET.

ADDRESSES: The meeting will be accessible via WebEx webinar/conference call. Webinar access information will be available at: *https://www.fisheries.noaa.gov/event/public-listening-session-atlantic-tunas-harpoon-category-fishery.*

Participants accessing the webinar are strongly encouraged to log/dial in 15 minutes prior to the meeting. Requests for sign language interpretation or other auxiliary aids should be directed to Anna Quintrell (see **FOR FURTHER INFORMATION CONTACT** section) at least 7 days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Anna Quintrell, *anna.quintrell@noaa.gov,* or Larry Redd, *larry.redd@noaa.gov,* at 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic highly migratory species (HMS)

fisheries, including the bluefin tuna (BFT) fisheries, are managed under the 2006 Consolidated HMS Fishery Management Plan and its amendments pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635.

In response to petitions for rulemaking submitted in 2021 and 2023, NMFS has engaged in deliberations regarding the management of the Harpoon category fishery for BFT. The petitioners advocated for regulatory measures to limit harpoon fishing near vessels using mobile gear that is used to fish for groundfish, scallops, or clams and to restrict the deployment of floating bait for the purpose of attracting BFT to the surface for harpooning. The petitioners felt the practices were contrary to the traditional method of fishing with harpoon gear, would cause the Harpoon category quota to be filled too quickly, and would cause safety issues. The petitioners also advocated for fishing with harpoon gear only during the day and prohibiting nighttime fishing due to safety concerns.

During the September 2023 HMS Advisory Panel meeting, stakeholders were invited to provide public comment on the aforementioned petitions. NMFS recognized the significance of ongoing dialogue and indicated the possibility of further discussions on the matter in the future.

The upcoming listening session allows NMFS to hear from stakeholders and the public regarding any insights, concerns, and recommendations pertaining to the Harpoon category in general and the aforementioned petitions.

For this meeting, we anticipate hearing from the public about the following topics:

- Recent harpooning practices and techniques in the BFT fishery;
- Recent harpooning activities in the BFT fishery in proximity to mobile-gear vessels;
- The impact of nighttime harpooning; and,
- Thoughts about the potential regulatory changes regarding the Harpoon category fishery.

The public is reminded that NMFS expects participants of the meeting to conduct themselves appropriately. At the beginning of the meeting, the moderator will explain how the meeting will be conducted and how and when participants can provide comments. NMFS will structure the meeting so that all members of the public will be able to comment. Participants are expected to respect the ground rules, and those that do not may be asked to leave.

Dated: March 7, 2024.

Everett Wayne Baxter,

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

[FR Doc. 2024–05299 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD656]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. The EFP would allow federally permitted fishing vessels to fish outside fishery regulations in support of exempted fishing activities proposed by Coonamessett Farm Foundation. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before April 12, 2024.

ADDRESSES: You may submit written comments by email at *nmfs.gar.efp@noaa.gov.* Include in the subject line ''CFF Great South Channel HMA Clam EFP.''

All comments received are a part of the public record and will generally be posted for public viewing in *https://www.noaa.gov/organization/information-technology/foia-reading-room* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''anonymous'' as the signature if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, *douglas.potts@noaa.gov,* 978–281–9341.

SUPPLEMENTARY INFORMATION: The applicant submitted a complete application for an EFP to conduct commercial fishing activities that the regulations would otherwise restrict. This EFP would exempt the participating vessels from the following Federal regulations:

TABLE 1—REQUESTED EXEMPTIONS

CFR citation	Regulation	Need for exemption
50 CFR 648.370(h).	Habitat Management Areas—prohibition on using bottom-tending mobile gear.	To conduct compensation fishing with hydraulic clam dredges.

TABLE 2—PROJECT SUMMARY

Project title	Compensation fishing in support of a Great South Channel Habitat Management Area study phase II: an acoustic mapping survey of Davis Bank East
Division action number	DA23–073.
Principal Investigator	Natalie Jennings.
Institution	Coonamessett Farm Foundation (CFF).
Continuing project (yes/no)	Yes.
Initial application date	September 26, 2023.
Complete application date	December 5, 2023.
Funding source	Compensation fishing.
Project Start	Upon issue.
Project End	1 year from issue.

TABLE 2—PROJECT SUMMARY—Continued

Project title	Compensation fishing in support of a Great South Channel Habitat Management Area study phase II: an acoustic mapping survey of Davis Bank East
Project objectives	Compensation surfclam fishing to fund a habitat mapping project using multibeam sonar and drop cameras.
Project location	Great South Channel Habitat Management Area, Davis Bank East.
Number of vessels	3 (2 active with 1 in reserve).
Number of trips	260.
Trip duration (days)	1.
Total number of days	260.
Gear type(s)	Hydraulic clam dredge.
Number of tows or sets	30 per trip.
Duration of tows or sets	0.16 hrs.

Project Narrative

Acoustic Survey Trips

An initial survey of the full Davis Bank East area (approximately 60 square kilometers) would be conducted using multibeam sonar and a drop camera array, lasting approximately 8 and 6 days, respectively. This would establish a baseline to monitor changes in fished and unfished portions of the area. Following the initial survey, research trips would consist of one 4-day trip per season (16 total days) in the northern half of the area. The survey would be conducted with a 25-percent overlap between adjacent multibeam lines. Sonar imagery would be processed for bathymetry and backscatter. In addition, a 2-day research trip would occur seasonally (8 total days) using a drop camera array to ground-truth the sonar imagery and provide benthic community biological information. Drop camera survey trips would be conducted concurrent with the sonar survey trips. Four drops per hour would be accomplished for 12 hours for 2 days, with a goal of approximately 96 stations sampled per trip. Time of day, sea state and weather conditions, GPS coordinates, depth, and time on bottom will be recorded at each drop camera station. The drop camera is a 4-foot-tall, four-sided pyramid outfitted with lights and a high-resolution Sony camera with a 1-meter-squared field of view. A final multibeam sonar and drop camera survey of the full Davis Bank East area would be conducted again lasting approximately 8 and 6 days, respectively. All survey trips would be directed by two CFF scientists onboard the vessel. No fishing gear will be deployed during survey trips. CFF will submit a separate application for a letter of acknowledgment of scientific research for these survey cruises.

Compensation Fishing Trips

The EFP would authorize the harvest of surfclams from an area closed to hydraulic clam dredges for the purpose of generating funds for the acoustic survey. After the initial acoustic survey is completed, two commercial surfclam vessels would take up to 130 trips (260 total trips) into the southern portion of the Davis Bank East area defined by these coordinates:

Latitude	Longitude
41.268° N	69.58° W.
41.268° N	69.508° W.
41.223° N	69.566° W.
41.223° N	69.508° W.

Both vessels would use a 48-inch-wide hydraulic surfclam dredge, towed between 2 and 3 knots for 10 minutes per tow, with a trip limit of 14 cages. Approximately 30 tows would be conducted per trip. A CFF scientist would be onboard 25 percent of compensation fishing trips to collect surfclam catch per unit effort and catch composition data. The vessel owners have committed 15 percent of the value of each trip to cover the full cost of the research trips and data analysis. At an estimated $30 per bushel ex-vessel value, this would just cover the total research budget of roughly $505,000. The participating vessel owners have agreed to make up the difference if the price falls below $30 per bushel.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: March 7, 2024.

Everett Wayne Baxter,

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

[FR Doc. 2024–05271 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD753]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's is convening its Scientific and Statistical Committee (SSC) sub-panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Wednesday, March 27, 2024, at 1 p.m.

ADDRESSES:

Webinar registration information: https://attendee.gotowebinar.com/register/6027689206954658393. Call in information: +1 (415) 930–5321, Access Code: 210–165–122.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

A Scientific and Statistical Committee sub-panel will meet to review the

methods of a management strategy evaluation (MSE) for Atlantic cod and give input on possible scenarios to simulate through the MSE. This MSE aims to support the Council's ongoing decision-making process for how to manage Atlantic cod given the recent review of cod stock structure that resulted in shifting from two biological units (Gulf of Maine and Georges Bank) to five units. This MSE aims to quantify the relative performance of candidate spatial management procedures. The sub-panel will formulate suggestions for the MSE team to consider and may reconvene later in 2024 to review progress. Other business will be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 6, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–05460 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD793]

Marine Mammals; File No. 27938

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that BBC Studios, Ltd., Whiteladies Road, Bristol, BS8 2LR, UK (Emily-Kate Moorhead, Responsible Party) has applied in due form for a permit to conduct commercial and educational photography on marine mammals.

DATES: Written comments must be received on or before April 12, 2024.

ADDRESSES: These documents are available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 27938 in the subject line of the email comment.

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

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

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to film up to 13 species of non-listed marine mammals in the New York Bight for a wildlife documentary series. Filming may occur from land, vessel, underwater (pole or drop-in camera), and unmanned aircraft system platform. See the application for species, life stages, and numbers of animals by filming platform. The permit is requested for 2 years.

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

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

Dated: March 7, 2024.

Julia M. Harrison,

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

[FR Doc. 2024–05263 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD721]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Parallel Thimble Shoal Tunnel Project, Virginia Beach, Virginia

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

ACTION: Issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the Chesapeake Tunnel Joint Venture (CTJV) to incidentally harass marine mammals during construction associated with the Parallel Thimble Shoal Tunnel Project (PTST) in Virginia Beach, Virginia.

DATES: This authorization is effective from February 15, 2024, through February 14, 2025.

ADDRESSES: Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed below.

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

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the

taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On July 28, 2023, NMFS received a request from CTJV for an IHA to take marine mammals incidental to in-water construction activities associated with the PTST project near Virginia Beach, VA. Following NMFS' review of the initial application, CTJV submitted several revised versions of the application based on NMFS' comments. The final version was submitted on November 7, 2023, and was deemed adequate and complete on November 13, 2023. CTJV's request is for take of 5 species by Level B harassment and, for a subset of three of these species, by Level A harassment. Neither CTJV nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS most recently issued an IHA to CTJV for similar work on November 8, 2022, (87 FR 68462; November 15, 2022). CTJV complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA, and information regarding their monitoring results may be found in the Estimated Take section.

This final IHA will cover 1 year of a larger project for which CTJV obtained IHAs for similar work (83 FR 36522, July 30, 2018; 85 FR 16061, March 20, 2020; 86 FR 14606, March 17, 2021; 86 FR 67024, November 24, 2021; and 87 FR 68462, November 15, 2022). The larger multi-year PTST project consists of the construction of a two-lane parallel tunnel to the west of the existing Thimble Shoal Tunnel, connecting Portal Island Nos. 1 and 2 as part of the 23-mile Chesapeake Bay Bridge-Tunnel (CBBT) facility.

Description of Activity

Overview

The purpose of the project is to build an additional two lane vehicle tunnel under the navigation channel as part of the CBBT. The PTST project will address existing constraints to regional mobility based on current traffic volume, improve safety, improve the ability to conduct necessary maintenance with minimal impact to traffic flow, and ensure reliable hurricane evacuation routes. In-water construction work will include the removal of a total of 158 36-inch steel piles on the temporary dock and trestle on Portal Islands Nos. 1 and 2 as well as the removal of steel mooring piles on both Portal Islands (97 total on Portal Island No.1); the removal of 36″ steel piles on the trestle (34 total on Portal Island No. 2); and the removal of 36″ steel mooring piles on both Island 1 (9 piles) and Island No. 2 (18 piles). All steel piles are hollow pipe piles. The planned impact and vibratory pile removal activities can introduce sound into the water environment which can result in take of marine mammals by behavioral harassment and, for some species, by auditory injury. Planned construction activities are expected to be completed from January–April as well as in December 2024. Note that the term ''pile driving'' is only used to refer to pile removal activities. No pile installation activities are planned by CTJV.

The in-water removal of a total of 158 piles will occur over 80 days. Removal will begin on Portal Island No. 1 in January through April 2024 for 54 days then will resume on Portal Island No. 2 in December 2024 for 26 days. No pile removal work will take place in the interim. The project schedule is shown in table 1. The IHA is effective from February 15, 2024, through February 14, 2025.

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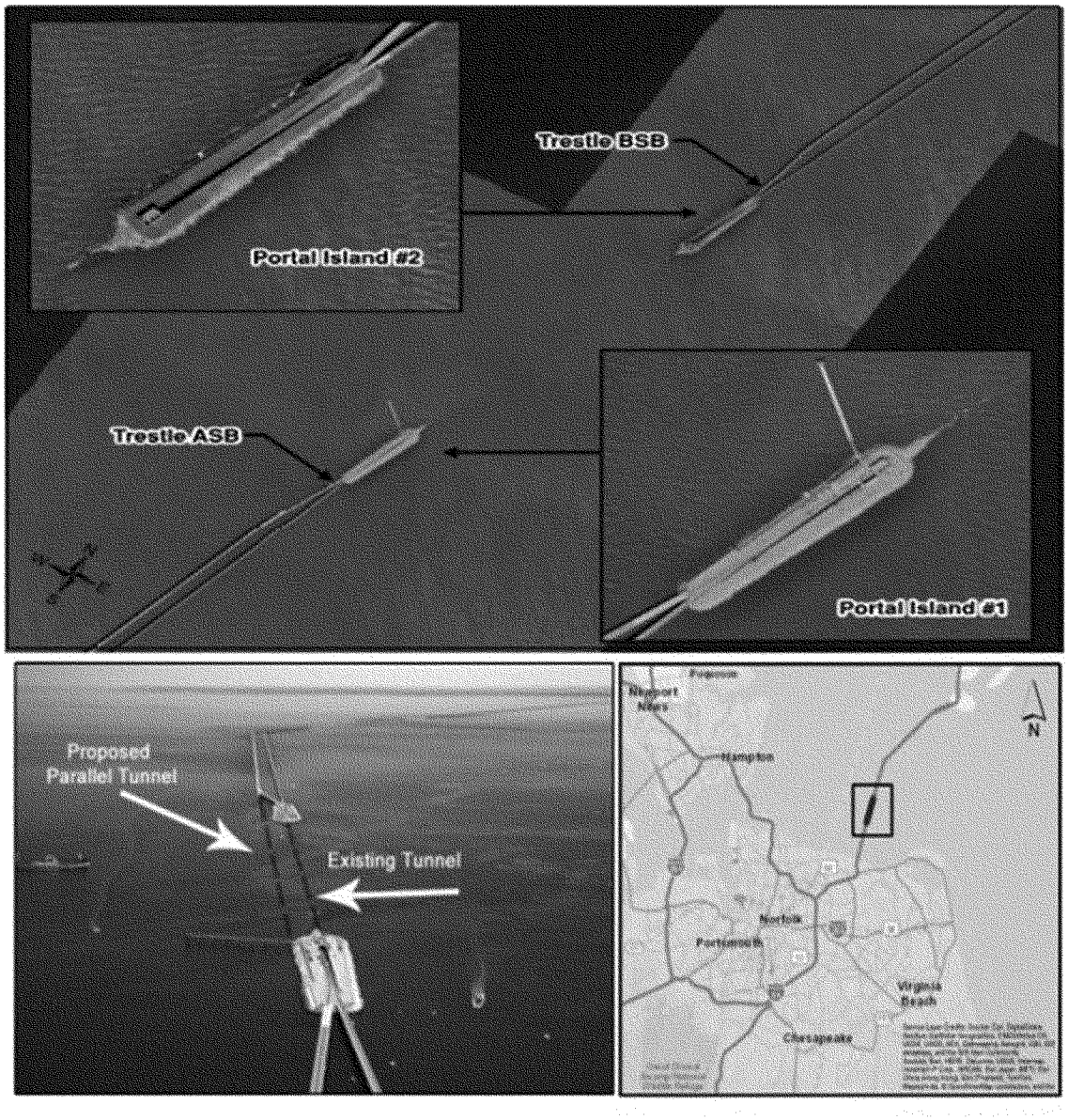

Figure 1 -- Map of Project Area near Virginia Beach, Virginia

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TABLE 1—ANTICIPATED PILE INSTALLATION SCHEDULE (JANUARY 2024–DECEMBER 2024)

Pile location	Pile function	Pile type	Installation/ removal method	Bubble curtain yes/no	Number of piles	Number of days per activity (total)	Number of piles/days per activity (per hammer type)	Anticipated installation date
Portal Island No. 1 ...	Mooring dolphins ..	36-inch Diameter Steel Pipe Pile.	Impact (if needed)	Yes	9	5	(2 Piles/Day)	1 January through 28 February 2024.
			Vibratory (Removal)	Yes		5	(2 Piles/Day)	
Portal Island No. 1 ...	Temporary Dock/ Trestle.	36-inch Diameter Steel Interlocked Pipe Piles.	Impact (if needed)	Yes	97	49	(2 Piles/Day)	1 January through 30 April 2024.
			Vibratory (Removal)	Yes		49	(2 Piles/Day)	
Portal Island No. 2 ...	Mooring dolphins ..	36-inch Diameter Steel Pipe Pile.	Impact (if needed)	Yes	18	9	(2 Piles/Day)	December 1–31, 2024.
			Vibratory (Removal)	Yes		9	(2 Piles/Day)	
Portal Island No. 2 ...	Omega Trestle	36-inch Diameter Steel Interlocked Pipe Piles.	Impact (if needed)	Yes	34	17	(2 Piles/Day)	December 1–31, 2024
			Vibratory (Removal)	Yes		17	(2 Piles/Day)	

A detailed description of the planned construction project is provided in the **Federal Register** notice for the proposed IHA (88 FR 89385, December 27, 2023). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of NMFS' proposal to issue an IHA to CTJV was published in the **Federal Register** on December 27, 2023 (88 FR 89385). That notice described, in detail, CTJV's activities, the marine mammal species that may be affected by the activities, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed IHA, and requested that interested persons submit relevant information, suggestions, and comments. This proposed notice was available for a 30-day public comment period. No comments were submitted during the 30-day public comment period,

Changes From the Proposed IHA to Final IHA

Since the **Federal Register** notice of the proposed IHA was published (88 FR 89385, December 27, 2023), NMFS published the 2023 Draft Atlantic Marine Mammal Stock Assessment Report, which provide updates to the harbor porpoise Gulf of Maine/Bay of Fundy stock and the gray seal Western North Atlantic stock abundances, Potential Biological Removal values (PBRs), and Annual Mortality/Serious Injury values (Annual M/SI). Updates have been made to Table 2 Species Likely Impacted by the Specified Activities as well as to our analysis of take (see Estimated Take) and small numbers determinations (see Small Numbers).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments* and 2023 Draft SARS; *https://www.federalregister.gov/documents/2024/01/29/2024-01653/draft-2023-marine-mammal-stock-assessment-reports*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species).*

Table 2 lists all species or stocks for which take is expected and authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic and Gulf of Mexico SARs (Hayes *et al.* 2023) and 2023 Draft SARS; *https://www.federalregister.gov/documents/2024/01/29/2024-01653/draft-2023-marine-mammal-stock-assessment-reports.* All values presented in table 2 are the most recent available at the time of publication and are available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.*

TABLE 2—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	Gulf of Maine	-,-; N	1,393 (0; 1,375, 2016)	22	12.15
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Bottlenose dolphin	*Tursiops truncatus*	WNA Coastal, Northern Migratory.	-,-; Y	6,639 (0.41; 4,759; 2016)	48	12.2–21.5
		WNA Coastal, Southern Migratory.	-,-; Y	3,751 (0.06; 2,353; 2016)	24	0–18.3
		Northern North Carolina Estuarine System.	-,-; Y	823 (0.06; 782; 2017)	7.8	7.2–30
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-, -; N	85,765 (0.53, 56,420, 2021).	649	145

TABLE 2—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	WNA	-, -; N	61,336 (0.08, 57,637, 2018).	1,729	339
Gray seal [4]	*Halichoerus grypus*	WNA	-, -; N	27,911 (0.0, 23,624, 2021).	1,512	4,570

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual Mortality/Serious Injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range.

[4] The NMFS stock abundance estimate applies to U.S. population only, however the actual stock abundance is approximately 505,000. The PBR value is estimated for the U.S. population, while the M/SI estimate is provided for the entire gray seal stock (including animals in Canada).

A detailed description of the species likely to be affected by the construction project, including a brief introduction to the affected stock as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (88 FR 89385, December 27, 2023). Please refer to the **Federal Register** notice of the proposed IHA for the full description for all species. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, Cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth *et al.* 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The underwater noise produced by CTJV's construction activities has the potential to result in behavioral harassment of marine mammals in the vicinity of the survey area. The **Federal Register** notice of the proposed IHA (88 FR 89385, December 27, 2023) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from CTJV's construction activities on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of the

proposed IHA (88 FR 89385, December 27, 2023).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through the IHA, which will inform both NMFS' consideration of ''small numbers,'' and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes will primarily be by Level B harassment, as use of the acoustic sources (*i.e.,* impact and vibratory driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for high frequency species and phocids because predicted auditory injury zones are larger than for mid-frequency species. Auditory injury is unlikely to occur for mid-frequency species. The required mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no serious injury or mortality is anticipated or authorized for this activity. Below we describe how the take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.,* bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.,* Southall *et al.,* 2007, 2021, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μPa)) for continuous (*e.g.,* vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 μPa for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by TTS as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur. CTJV's planned activities include the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re 1 μPa are applicable.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). CTJV's planned pile driving activities includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

These thresholds are provided in table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT—Continued

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$*:* 232 dB; $L_{E,OW,24h}$*:* 203 dB	*Cell 10:* $L_{E,OW,24h}$*:* 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 µPa, and cumulative sound exposure level (L_E) has a reference value of 1 µPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the planned project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* pile driving).

The project includes vibratory and impact pile driving. Source levels for these activities are based on reviews of measurements of the same or similar types and dimensions of piles available in the literature. Source levels for each pile size and activity are presented in table 5. Source levels for vibratory removal of piles of the same diameter are assumed to be the same. Note that CTJV will employ a bubble curtain during all impact and vibratory driving activities which NMFS assumes will reduce source levels by 5 dB.

TABLE 5—ESTIMATES OF MEAN UNDERWATER SOUND LEVELS GENERATED DURING VIBRATORY AND IMPACT PILE DRIVING

Pile type	Hammer type	Peak	RMS	SSsel	Source
36-in steel pipe	Impact/(with −5 dB bubble curtain).	210/(205)	193/(188)	183/(178)	Caltrans 2015, 2020.
	Vibratory/(with −5 dB bubble curtain).	180/(175)	170/(165)		Caltrans 2015.

Note: CTJV will incorporate bubble curtain with a 5 dB reduction for all pile driving activities.

Transmission loss (*TL*) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. *TL* parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater *TL* is:

$TL = B * \text{Log10}\ (R1/R2)$,

where

TL = transmission loss in dB
B = transmission loss coefficient
*R*1 = the distance of the modeled SPL from the driven pile, and
*R*2 = the distance from the driven pile of the initial measurement

Absent site-specific acoustical monitoring with differing measured transmission loss, a practical spreading value of 15 is used as the transmission loss coefficient in the above formula. Site-specific transmission loss data for the PTST project area are not available; therefore, the default coefficient of 15 is used to determine the distances to the Level A harassment and Level B harassment thresholds.

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources, such as pile driving, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur PTS. Inputs used in the optional User Spreadsheet tool are shown in table 6, and the resulting estimated isopleths are shown in table 7, as reported below.

TABLE 6—USER SPREADSHEET INPUTS

	36-inch steel piles	
	Vibratory	Impact
Source Level (SPL)	170 RMS	183 SEL

TABLE 6—USER SPREADSHEET INPUTS—Continued

	36-inch steel piles	
	Vibratory	Impact
Transmission Loss Coefficient	15	15
Weighting Factor Adjustment (kHz)	2.5	2
Activity Duration per day (minutes)	30	.....
Number of strikes per pile	.....	240
Number of piles per day	2	2
Distance of sound pressure level measurement	10	10

TABLE 7—CALCULATED LEVEL A AND LEVEL B HARASSMENT ISOPLETHS

[Meters]

Scenario	Level A harassment zones				Level B harassment zones
	LF	MF	HF	Phocid pinnipeds	
Driving Type:					
Pile Type	Island 1 & 2	Island 1 & 2	Island 1 & 2	Island 1 & 2	Island 1 & 2.
36-in Impact (with Bubble Curtain):					
36-in. Steel	285	10	338	152	736.
36-in Vibratory (with Bubble Curtain):					
36-in. Steel	8	1	12	5	10,000.

Marine Mammal Occurrence and Take Estimation

In this section we provide information about the occurrence of marine mammals, including density or other relevant information which will inform the take calculations as well as how the information provided is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and authorized for take. Several approaches were utilized to estimate take for affected species depending on the best data that was available. For some species, survey or observational data was used to estimate take (*e.g.* harbor seal, gray seal). If density data was available, it was employed to develop the take estimate (*i.e.,* bottlenose dolphin). In cases where the best available information consisted only of very low density values, NMFS assumed the average group to arrive at an estimate (*i.e.,* humpback whale, harbor porpoise).

Humpback Whale

Humpback whales are rare in the Chesapeake Bay. Density data for this species within the project vicinity were not available. Habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.* 2016) represent the best available information regarding marine mammal densities offshore near the mouth of the Chesapeake Bay. At the closest point to the PTST project area, humpback densities showed a maximum monthly density of 0.107/100 km^2 in March. Because humpback whale occurrence is low, as mentioned above, the CTJV estimated, and NMFS concurred, that there will be a single humpback sighting every two months for the duration of in-water pile driving activities. There are 5 months of planned in-water construction. Using an average group size of two animals Kraus *et al.* (2016) and 5 months of active in-water pile driving work (Jan, Feb, Mar, Apr, Dec) provides an estimate of four takes during the January-April period. NMFS conservatively assumed that there will be an additional sighting of 2 humpback whales in December. Because it is expected that a full shutdown can occur before the mammal can reach the full extent of the Level A harassment zone, no takes by Level A harassment were requested or are authorized. Therefore, NMFS has authorized six takes of humpback whale by Level B harassment.

Bottlenose Dolphin

There was insufficient monitoring data available from previous PTST IHAs to estimate dolphin take. Therefore, the expected number of bottlenose dolphins was estimated using a 2016 report on the occurrence, distribution, and density of marine mammals near Naval Station Norfolk and Virginia Beach, Virginia (Engelhaupt *et al.* 2016). This report provides seasonal densities of bottlenose dolphins for inshore areas in the vicinity of the project and along the coast of Virginia Beach. Like most wildlife, bottlenose dolphins do not use habitat uniformly. The heterogeneity in available habitat, dietary items and protection likely results in some individuals preferring ocean and others estuary (Ballance 1992; Gannon and Waples 2004). Dolphins clearly have the ability to move between these habitat types. Gannon and Waples (2004) suggest individuals prefer one habitat over the other based on gut contents of dietary items. Therefore, a subset of survey data from Engelhaupt *et al.* (2016) was used to determine seasonal dolphin densities within the project area. A spatially refined approach was used by plotting dolphin sightings within a 12 km radius of the planned project location. Densities were determined following methodology outlined in Engelhaupt *et al.* 2016 and Miller *et al.* 2019 using the package DISTANCE in R statistical software (R. Core Team 2018). Calculated densities by season are provided in table 8.

TABLE 8—DENSITIES (INDIVIDUAL/km^2) OF BOTTLENOSE DOLPHIN FROM INSHORE AREAS OF VIRGINIA

Season	12 km distance around PTST project area
Spring	1.00
Winter	0.63

This information was then used to calculate the monthly takes based on the number of pile driving days per month. These were broken out by month as shown in table 9. The Level B harassment area for each pile and driving type was multiplied by the

appropriate seasonal density and the anticipated number of days per activity per month to derive the total number of takes for each activity. Given this information, NMFS is authorizing 12,256 Level B harassment exposures for bottlenose dolphins. No take by Level A harassment has been authorized by NMFS since the shutdown zone is 20 m and should be readily visible to PSOs.

TABLE 9—ESTIMATED TAKES OF BOTTLENOSE DOLPHIN BY LEVEL B HARASSMENT BY MONTH, LOCATION, AND DRIVING ACTIVITY

Month	Jan	Feb	Mar	Apr	Dec	Totals
Dolphin Density (/km^2)	0.63	0.63	1	1	0.63	
Impact: Portal Island 1 Mooring Dolphins (9 Piles)						
Refined Area(/km^2)	1.38	1.38	1.38	1.38	1.38	
Driving Days	2	3	0	0	0	
Dolphin Harassments	2	3	0	0	0	5
Vibratory: Portal Island 1 Mooring Dolphins (9 Piles)						
Refined Area(/km^2)	212	212	212	212	212	
Driving Days	2	3	0	0	0	
Dolphin Harassments	268	401	0	0	0	669
Impact: Portal Island 2 Mooring Dolphins (18 Piles)						
Refined Area(/km^2)	1.32	1.32	1.32	1.32	1.32	
Driving Days	0	0	0	0	9	
Dolphin Harassments	0	0	0	0	8	8
Vibratory: Portal Island 2 Mooring Dolphins (18 Piles)						
Refined Area(/km^2)	202	202	202	202	202	
Driving Days	0	0	0	0	9	
Dolphin Harassments	0	0	0	0	1,146	1,146
Impact: Portal Island 1 Trestle/Dock Removal (97 Piles)						
Refined Area(/km^2)	1.38	1.38	1.38	1.38	1.38	
Driving Days	13	15	13	8	0	
Dolphin Harassments	12	14	18	12	0	56
Vibratory: Portal Island 1 Trestle/Dock Removal (97 Piles)						
Refined Area(/km^2)	212	212	212	212	212	
Driving Days	13	15	13	8	0	
Dolphin Harassments	1,737	2,004	2,756	1,696	0	8,193
Impact: Portal Island 2 Trestle Removal (34 Piles)						
Refined Area(/km^2)	1.32	1.32	1.32	1.32	1.32	
Driving Days	0	0	0	0	17	
Dolphin Harassments	0	0	0	0	15	15
Vibratory: Portal Island 2 Trestle Removal (34 Piles)						
Refined Area(/km^2)	202	202	202	202	202	
Driving Days	0	0	0	0	17	
Dolphin Harassments	0	0	0	0	2,164	2,164
Total						12,256

The total number of bottlenose dolphin Level B harassment events will be split between three bottlenose dolphin stocks: Western North Atlantic Southern Migratory Coastal; Western North Atlantic Northern Migratory Coastal; and NNCES. There is insufficient information to apportion the requested takes precisely to each of these three stocks present in the project area. Given that most of the NNCES stock are found in the Pamlico Sound estuarine system, it is assumed that no greater than 200 of the takes will be from this stock. Since members of the Western North Atlantic Northern Migratory Coastal and Western North Atlantic Southern Migratory Coastal stocks are thought to occur in or near the project area in greater numbers, we conservatively assume that no more than half of the remaining animals will belong to either of these stocks.

Additionally, a subset of these takes will likely be comprised of Chesapeake Bay resident dolphins, although the size of that population is unknown. It is assumed that an animal will be taken once over a 24-hour period; however, the same individual may be taken multiple times over the duration of the project. Therefore, the number of takes

for each stock is assumed to overestimate the actual number of individuals that may be affected.

Harbor Porpoise

Harbor porpoises are known to occur in the coastal waters near Virginia Beach (Hayes *et al.* 2019), and although they have been reported on rare occasions in the Chesapeake Bay near the project area, they have not been seen by the Protected Species Observers in the PTST project area during the construction. Density data for this species within the project vicinity do not exist or were not calculated because sample sizes were too small to produce reliable estimates of density. Additionally, harbor porpoise sighting data collected by the U.S. Navy near Naval Station Norfolk and Virginia Beach from 2012 to 2015 (Engelhaupt *et al.* 2014, 2015, 2016) did not produce high enough sample sizes to calculate densities.

One group of two harbor porpoises was seen during spring 2015 (Engelhaupt *et al.* 2016). Therefore, it is assumed that there are two harbor porpoises exposed to noise exceeding harassment levels each month during the spring (March–April) for a total of four harbor porpoises (*i.e.,* 1 group of 2 individuals per month × 2 months per year = 4 harbor porpoises). Harbor porpoises are not expected to be present in the summer, fall or winter. Harbor porpoises are members of the high-frequency hearing group which will have Level A harassment isopleths as large as 338 m during impact driving of 36″ steel pile, while the Level B harassment zone is 736 m. Given the relatively large Level A harassment zones for HF cetaceans during impact driving and a required shutdown zone of 200 m, NMFS will assume that 30 percent of porpoises are taken by Level A harassment. Therefore, NMFS is authorizing take of three porpoises by Level B harassment and one porpoise by Level A harassment.

Harbor Seal

The expected number of harbor seals in the project area was estimated using systematic, land and vessel-based survey data for in-water and hauled-out seals collected by the U.S. Navy at the CBBT rock armor and Portal Islands from November 2014 through April 2022 (Rees *et al.* 2016; Jones *et al.* 2018; Jones and Rees 2020; Jones and Rees 2021; Jones and Rees 2022; Jones and Rees 2023) and shown in table 10. The number of harbor seals sighted by month ranged from 0 to 170 individuals.

TABLE 10—SUMMARY OF HISTORICAL HARBOR SEAL SIGHTINGS BY MONTH FROM 2014 TO 2022 AT THE CHESAPEAKE BAY BRIDGE TUNNEL

Month	2014	2015	2016	2017	2018	2019	2020	2021	2022	Monthly average
January	.....	.....	33	120	170	7	18	49	34	61.6
February	.....	39	80	106	159	21	0	43	14	57.7
March	.....	55	61	41	0	18	6	26	37	30.5
April	.....	10	1	3	3	4	0	6	1	3.5
December	4	9	24	8	29	0	4	11	11	12.5

Note: Seal counts began in November 2014 and were collected for 9 field seasons (2014/2015, 2015/2016, 2016/2017, 2017/2018, 2018/2019, 2019/2020, 2020/2021, 2021/2022) ending in 2022. In January 2015, no surveys were conducted.

Seal density data are in the format of seal per unit time; therefore, seal take requests were calculated as total number of potential seals per pile driving day (8 hours) multiplied by the number of driving days per month. For example, in December seal density data is reported at 14.3 seals per day × 26 workdays in December, resulting in the potential of 372 instances of take for that month (table 11). The anticipated number of take events were summed across the months during which in-water pile driving is planned. The largest Level A harassment isopleth for phocid species is 153 m which will occur when piles are being removed via impact hammer with a bubble curtain. The smallest Level A harassment zone is 1 m which will occur when piles are removed via vibratory hammer with a bubble curtain. NMFS is requiring a shutdown zone for harbor seals of 100 m during impact driving which will theoretically result in no take by Level A harassment. However, a small number of harbor seals could enter into the shutdown zone unseen by a PSO and remain for sufficient duration to incur PTS. Given that harbor seals are common in the project area, NMFS assumed that a single harbor seal will experience Level A harassment during each in-water work day (80). Therefore, NMFS is authorizing the take of 80 harbor seals by Level A harassment and 2,634 harbor seals by Level B harassment for a total of 2,714 takes (table 11).

TABLE 11—CALCULATION OF THE NUMBER OF HARBOR SEAL TAKES

Month	Estimated seals per work day	Total pile driving days per month	Total number of requested takes
January 2024	61.6	15	924
February 2024	57.8	18	1,040
March 2024	30.5	13	396.5
April 2024	3.5	8	28
December 2024	12.5	26	325
			2,714

Gray Seal

The number of gray seals expected to be present at the PTST project area was estimated using the same methodology as was used for the harbor seal. Survey data collected by the U.S. Navy at the portal islands from 2015 through 2022 was utilized (Rees *et al.* 2016; Jones *et al.* 2018; Jones and Rees 2023). A maximum of 1 gray seal was seen during the months of February 2015, 2016, and 2022. Given this information NMFS

assumed that a single gray seal will be taken per work day in February 2024. The anticipated numbers of monthly takes were calculated following the same approach as for harbor seals, and the monthly takes were then summed (table 12). Although the project has not recorded any gray seal sightings to date, NMFS assumed that, over the duration of the project, a single gray seal could enter into the Level A harassment zone unseen by a PSO and remain for sufficient duration to incur PTS. Therefore, NMFS is authorizing the take of 1 gray seal by Level A harassment and 17 gray seals by Level B harassment for a total of 18 authorized takes.

TABLE 12—CALCULATION OF THE NUMBER OF GRAY SEAL TAKES

Month	Estimated seals per work day	Total pile driving days per month	Total number of requested takes
January 2024	0	15	0
February 2024	1	18	18
March 2024	0	13	0
April 2024	0	8	0
December 2024	0	26	0
Total	.....	.....	18

Table 13 shows the take numbers authorized by NMFS as well as the percentage of each stock affected.

TABLE 13—AUTHORIZED TAKE BY STOCK AND HARASSMENT TYPE AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock	Level A harassment	Level B harassment	Total	Percent of stock
Humpback Whale	Gulf of Maine	0	6	6	0.4
Harbor Porpoise	Gulf of Maine/Bay of Fundy	1	3	4	<0.01
Bottlenose Dolphin	WNA Coastal, Northern Migratory	0	6,028	6,028	90.8
	WNA Coastal, Southern Migratory	0	6,028	6,028	160.7
	NNCES	0	200	200	24.3
Harbor Seal	Western North Atlantic	80	2,634	2,714	4.4
Gray Seal	Western North Atlantic	1	17	18	<0.01

The monitoring results from work conducted in 2020 and 2021 are found in table 14. The results demonstrate significantly fewer takes by harassment than were authorized, and it is important to note that estimates in the previous IHAs as well as in this IHA are based on conservative assumptions, including the size of identified harassment zones and the abundance of marine mammals. However, we note that these assumptions represent the best available information in this case.

TABLE 14—MARINE MAMMAL MONITORING RESULTS FROM IHAS ISSUED IN 2020 AND 2021

Species	Stock	Level A harassments authorized in 2020 IHA	Level B harassments authorized in 2020 IHA	Observations in level A harassment zones under 2020 IHA	Observations in level B harassment zones under 2020 IHA	Level A harassments authorized in 2021 IHA	Level B harassments authorized in 2021 IHA	Observations in level A harassment zones under 2021 IHA	Observations in level B harassment zones under 2021 IHA
Humpback Whale.	Gulf of Maine	.....	12	.....	.....	.....	12	.....	.....
Harbor Porpoise	Gulf of Maine/ Bay of Fundy.	5	7	.....	.....	5	7	.....	.....
Bottlenose Dolphin.	WNA Coastal, Northern Migratory.	142	14,095	.....	5	.....	43,203	.....	394
	WNA Coastal, Southern Migratory.	142	14,095	.....	.....	.....	43,203	.....	.....
	NNCES	2	198	.....	.....	.....	250	.....	.....
Harbor Seal	Western North Atlantic.	1,296	2,124	.....	.....	1,154	1,730	.....	.....
Gray Seal	Western North Atlantic.	1	3	.....	.....	16	24	.....	.....

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses

(latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

CTJV must conduct training between construction supervisors, crews, marine mammal monitoring team, and relevant CTJV staff prior to the start of all pile driving activities and when new personnel join the work, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood.

Construction supervisors and crews, PSOs, and relevant CTJV staff must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction. If an activity is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone indicated in table 15 or 15 minutes have passed without re-detection of the animal.

Construction activities must be halted upon observation of a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met entering or within the harassment zone.

Shutdown Zones—For all pile driving activities, CTJV will implement shutdowns within designated zones. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones vary based on the activity type and marine mammal hearing group (table 7). In most cases, the shutdown zones are based on the estimated Level A harassment isopleth distances for each hearing group. However, in cases where it would be challenging to detect marine mammals at the Level A harassment isopleth, (*e.g.,* for high frequency cetaceans and phocids during impact driving activities), smaller shutdown zones have been established (table 15).

TABLE 15—SHUTDOWN AND MONITORING ZONES

[Meters]

Method and piles	LF cetaceans	MF cetaceans	HF cetaceans	Phocids	Monitoring zone
36-in Impact (with bubble Curtain)	285	20	200	160	736
36-in Vibratory (with bubble curtain)	10	10	15	10	10,000

Protected Species Observers—The number and placement of PSOs during all construction activities (described in the Monitoring and Reporting section as well as the Marine Mammal Monitoring Plan) will ensure that the entire shutdown zone is visible. A minimum of one PSO must be employed for all driving activities and placed at a location providing, at a minimum, adequate views of the established shutdown zones.

Monitoring for Level B Harassment—PSOs will monitor the shutdown zones and beyond to the extent that PSOs can see. Monitoring beyond the shutdown zones enables observers to be aware of and communicate the presence of marine mammals in the project areas outside the shutdown zones and thus prepare for a potential cessation of activity should the animal enter the shutdown zone. If a marine mammal enters the Level B harassment zone (or Level A harassment zone if larger than the Level B harassment zone), PSOs will document the marine mammal's presence and behavior.

Pre and Post-Activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs will observe the shutdown, Level A harassment, and Level B harassment zones for a period of 30 minutes. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones are clear of marine mammals. If the shutdown zone is obscured by fog or poor lighting conditions, in-water construction activity will not be initiated until the entire shutdown zone is visible. Pile driving activities may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals. If a marine mammal is observed entering or within shutdown zones, pile driving activities must be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed for all other species without re-detection of the animal.

Soft Start—The use of soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of three strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period. This procedure will be conducted a total of three times before impact pile driving begins. Soft start will be implemented at the start of each day's impact pile driving activities and at any time following cessation of

impact pile driving activities for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving activities.

Bubble Curtain—Use of a bubble curtain during impact and vibratory pile driving in water depths greater than 3 m (10 ft) will be required. It must be operated as necessary to achieve optimal performance, and there can be no reduction in performance attributable to faulty deployment. At a minimum, CTJV must adhere to the following performance standards: The bubble curtain must distribute air bubbles around 100 percent of the piling circumference for the full depth of the water column. The lowest bubble ring must be in contact with the substrate for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent substrate contact. No parts of the ring or other objects shall prevent full substrate contact. Air flow to the bubblers must be balanced around the circumference of the pile.

Based on our evaluation of the applicant's planned measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

Visual Monitoring—Marine mammal monitoring must be conducted in accordance with the Marine Mammal Monitoring and Mitigation Plan. Marine mammal monitoring during pile driving activities must be conducted by NMFS-approved PSOs in a manner consistent with the following:

- PSOs must be independent of the activity contractor (for example, employed by a subcontractor), and have no other assigned tasks during monitoring periods;
- At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;
- Other PSOs may substitute other relevant experience, education (degree in biological science or related field) or training for experience performing the duties of a PSO during construction activities pursuant to a NMFS-issued incidental take authorization.
- PSOs must be approved by NMFS prior to beginning any activity subject to this IHA.

PSOs should also have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including, but not limited to, the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was note implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Visual monitoring will be conducted by a minimum of one trained PSO positioned at a suitable vantage point that will allow coverage of the identified harassment zones. The Portal Islands and associated berms will constrain the ensonified area to only one side (*i.e.* east or west) of the bridge tunnel structure. Additionally, CTJV expressed concern that since they will only be using one drill for about two hours per week, it will be difficult to secure multiple observers willing to commit to the PTST project.

Monitoring will be conducted 30 minutes before, during, and 30 minutes after all in water construction activities. In addition, PSOs will record all incidents of marine mammal occurrence, regardless of distance from activity, and will document any behavioral reactions in concert with distance from piles being removed. Pile driving activities include the time to remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

Reporting

CTJV will submit a draft marine mammal monitoring report to NMFS within 90 days after the completion of pile driving activities, or 60 days prior to a requested date of issuance of any future IHAs for the project, or other projects at the same location, whichever comes first. The marine mammal monitoring report will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report will include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including: (1) The number and type of piles that were removed (*e.g.,* impact, vibratory); and (2) Total duration of driving time for each pile (vibratory) and number of strikes for each pile (impact);

- PSO locations during marine mammal monitoring;
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
- Upon observation of a marine mammal, the following information: (1) Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; (2) Time of sighting; (3) Identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; (4) Distance and location of each observed marine mammal relative to the pile being removed for each sighting; (5) Estimated number of animals (min/max/best estimate); (6) Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*); (7) Animal's closest point of approach and estimated time spent within the harassment zone; (8) Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
- Number of marine mammals detected within the harassment zones, by species; and,
- Detailed information about implementation of any mitigation (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. The Holder must submit all PSO data electronically in a format that can be queried such as a spreadsheet or database (*i.e.,* digital images of data sheets are not sufficient).

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Holder must report the incident to the Office of Protected Resources (OPR), NMFS (*PR.ITP.MonitoringReports@noaa.gov* and *ITP.pauline@noaa.gov*) and to the Greater Atlantic Regional Stranding Coordinator (978–282–8478) as soon as feasible. If the death or injury was clearly caused by the specified activity, the Holder must immediately cease the activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this IHA. The Holder must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the majority of our analysis applies to all the species listed in table 13, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Impact and vibratory pile driving have the potential to disturb or displace marine mammals. Specifically, the project activities may result in take, in the form of Level A and Level B harassment from underwater sounds generated from pile driving.

The takes from Level A and Level B harassment would be due to potential behavioral disturbance, TTS, and PTS. No serious injury or mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see Mitigation section).

We anticipate that harbor porpoises, harbor seals and gray seals may sustain some limited Level A harassment in the form of auditory injury. However, animals in these locations that experience PTS will likely only receive slight PTS, *i.e.,* minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by pile driving, *i.e.,* the low-frequency region below 2 kHz, not severe hearing impairment or impairment in the regions of greatest hearing sensitivity. If hearing impairment occurs, it is most likely that the affected animal will lose a few decibels in its hearing sensitivity, which in most cases is not likely to meaningfully affect its ability to forage and communicate with conspecifics. Impacts to individual fitness, reproduction, or survival are unlikely. As described above, we expect that marine mammals will be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice through use of soft start.

Behavioral responses of marine mammals to pile driving at the project

site, if any, are expected to be mild and temporary. Marine mammals within the Level B harassment zone may not show any visual cues they are disturbed by activities or could become alert, avoid the area, leave the area, or display other mild responses that are not observable such as changes in vocalization patterns. Given the short duration of noise-generating activities per day, any harassment would be temporary. There are no other areas or times of known biological importance for any of the affected species.

We acknowledge the existence and concern about the ongoing humpback whale UME. We have no evidence that this project is likely to result in vessel strikes (a major correlate of the UME) and marine construction projects in general involve the use of slow-moving vessels, such as tugs towing or pushing barges, or smaller work boats maneuvering in the vicinity of the construction project. These vessel types are not typically associated with vessel strikes resulting in injury or mortality. More generally, the UME does not yet provide cause for concern regarding population-level impacts for humpback whales. Despite the UME, the West Indies breeding population or DPS, remains healthy.

For all species and stocks, take will occur within a limited, confined area (adjacent to the CBBT) of the stock's range and the amount of take authorized is extremely small when compared to stock abundance. In addition, it is unlikely that minor noise effects in a small, localized area of habitat will have any effect on the stocks' ability to recover. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities will have only minor, short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- Authorized Level A harassment will be very small amounts and of low degree;
- No important habitat areas have been identified within the project area;
- For all species, the specified project area in Chesapeake Bay is a very small and peripheral part of their range;
- CTJV will implement mitigation measures such as bubble curtains, soft-starts, and shut downs; and
- Monitoring reports from similar work in Chesapeake Bay have documented little to no effect on individuals of the same species impacted by the specified activities.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is less than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS is authorizing is below one-third of the estimated stock abundance for humpback whale, harbor porpoise, gray seal, and harbor seal (in fact, take is no more than 6 percent of the abundance of the affected stocks, see table 13). This is likely a conservative estimate because they assume all takes are of different individual animals which is likely not the case. Some individuals may return multiple times in a day, but PSOs will count them as separate takes if they cannot be individually identified.

There are three bottlenose dolphin stocks that could occur in the project area. Therefore, the estimated 12,256 dolphin takes by Level B harassment will likely be split among the western North Atlantic northern migratory coastal stock, western North Atlantic southern migratory coastal stock, and NNCES stock. Based on the stocks' respective occurrence in the area, NMFS estimated that there will be no more than 200 takes from the NNCES stock, representing 24.3 percent of that population, with the remaining takes split evenly between the northern (90.8 percent) and southern migratory coastal stocks (160.7 percent). Based on consideration of various factors described below, we have determined the numbers of individuals taken will comprise less than one-third of the best available population abundance estimate of either coastal migratory stock. Detailed descriptions of the stocks' ranges have been provided in Description of Marine Mammals in the Area of Specified Activities.

Both the northern migratory coastal and southern migratory coastal stocks have expansive ranges and they are the only dolphin stocks thought to make broad-scale, seasonal migrations in coastal waters of the western North Atlantic. Given the large ranges associated with these two stocks it is unlikely that large segments of either stock will approach the project area and enter into the Chesapeake Bay. The majority of both stocks are likely to be found widely dispersed across their respective habitat ranges and unlikely to be concentrated in or near the Chesapeake Bay.

Furthermore, the Chesapeake Bay and nearby offshore waters represent the boundaries of the ranges of each of the two coastal stocks during migration. The northern migratory coastal stock is found during warm water months from coastal Virginia, including the Chesapeake Bay and Long Island, New York. The stock migrates south in late summer and fall. During cold water months dolphins may be found in coastal waters from Cape Lookout, North Carolina, to the North Carolina/Virginia. During January–March, the southern migratory coastal stock appears to move as far south as northern Florida. From April to June, the stock moves back north to North Carolina. During the warm water months of July–August, the stock is presumed to occupy coastal waters north of Cape Lookout, North Carolina, to Assateague, Virginia, including the Chesapeake Bay. There is likely some overlap between the northern and southern migratory stocks during spring and fall migrations, but the extent of overlap is unknown.

The Bay and waters offshore of the mouth are located on the periphery of the migratory ranges of both coastal stocks (although during different seasons). Additionally, each of the migratory coastal stocks are likely to be located in the vicinity of the Bay for

relatively short timeframes. Given the limited number of animals from each migratory coastal stock likely to be found at the seasonal migratory boundaries of their respective ranges, in combination with the short time periods (~2 months) animals might remain at these boundaries, it is reasonable to assume that takes are likely to occur only within some small portion of either of the migratory coastal stocks.

Both migratory coastal stocks likely overlap with the NNCES stock at various times during their seasonal migrations. The NNCES stock is defined as animals that primarily occupy waters of the Pamlico Sound estuarine system (which also includes Core, Roanoke, and Albemarle sounds, and the Neuse River) during warm water months (July–August). Members of this stock also use coastal waters (≤1 km from shore) of North Carolina from Beaufort north to Virginia Beach, Virginia, including the lower Chesapeake Bay. Comparison of dolphin photo-identification data confirmed that limited numbers of individual dolphins observed in Roanoke Sound have also been sighted in the Chesapeake Bay (Young, 2018). Like the migratory coastal dolphin stocks, the NNCES stock covers a large range. The spatial extent of most small and resident bottlenose dolphin populations is on the order of 500 km^2, while the NNCES stock occupies over 8,000 km^2 (LeBrecque *et al.,* 2015). Given this large range, it is again unlikely that a preponderance of animals from the NNCES stock will depart the North Carolina estuarine system and travel to the northern extent of the stock's range and enter into the Bay. However, recent evidence suggests that there is likely a small resident community of NNCES dolphins of indeterminate size that inhabits the Chesapeake Bay year-round (Eric Patterson, Personal Communication).

Many of the dolphin observations in the Bay are likely repeated sightings of the same individuals. The Potomac-Chesapeake Dolphin Project has observed over 1,200 unique animals since observations began in 2015. Re-sightings of the same individual can be highly variable. Some dolphins are observed once per year, while others are highly regular with greater than 10 sightings per year (Mann, Personal Communication). Similarly, using available photo-identification data, Engelhaupt *et al.* (2016) determined that specific individuals were often observed in close proximity to their original sighting locations and were observed multiple times in the same season or same year. Ninety-one percent of re-sighted individuals (100 of 110) in the study area were recorded less than 30 km from the initial sighting location. Multiple sightings of the same individual will considerably reduce the number of individual animals that are taken by harassment. Furthermore, the existence of a resident dolphin population in the Bay will increase the percentage of dolphin takes that are actually re-sightings of the same individuals.

In summary and as described above, the following factors primarily support our determination regarding the incidental take of small numbers of a species or stock:

- The take of marine mammal stocks authorized for take comprises less than 10 percent of any stock abundance (with the exception of bottlenose dolphin stocks);
- Potential bottlenose dolphin takes in the project area are likely to be allocated among three distinct stocks;
- Bottlenose dolphin stocks in the project area have extensive ranges and it will be unlikely to find a high percentage of any one stock concentrated in a relatively small area such as the project area or the Bay;
- The Bay represents the migratory boundary for each of the specified dolphin stocks and it will be unlikely to find a high percentage of any stock concentrated at such boundaries;
- Many of the takes will be repeats of the same animal and it is likely that a number of individual animals could be taken 10 or more times.

Based on the analysis contained herein of the planned activity (including the required mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is expected to result from this activity or been authorized by NMFS. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that will preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Authorization

NMFS has issued an IHA to CTJV for the potential harassment of small numbers of five marine mammal species incidental to the Parallel Thimble Shoal Tunnel Project, In Virginia Beach, Virginia that includes the previously explained mitigation, monitoring and reporting requirements.

Dated: March 4, 2024.

Kimberly Damon-Randall,

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

[FR Doc. 2024–05321 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD783]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid conference meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet April 1, 2024 through April 9, 2024.

DATES: The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. in the Aleutian room on Monday, April 1, 2024, and continue through Wednesday, April 3, 2024. The Council's Advisory Panel (AP) will begin at 8 a.m. in the Denali room on Tuesday, April 2, 2024, and continue through Saturday, April 6, 2024. The closed Executive/Finance Committee will meet Wednesday April 3, 2024, from 1 p.m. to 5 p.m. at the Council's offices. The Council will begin at 8 a.m. in the Aleutian room on Thursday, April 4, 2024, and continue through Tuesday, April 9, 2024. All times listed are Alaska Time.

ADDRESSES: The meetings will be a hybrid conference. The in-person component of the meeting will be held at the Hilton Hotel, 500 W 3rd Ave., Suite 400, Anchorage, AK 99501, or join the meeting online through the links at *https://www.npfmc.org/upcoming-council-meetings.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via webconference are given under Connection Information, below.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; email: *diana.evans@noaa.gov;* telephone: (907) 271–2809. For technical support, please contact our Council administrative staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Monday, April 1, 2024, Through Wednesday, April 3, 2024

The SSC agenda will include the following issues:

(1) Scallops—Stock Assessment and Fishery Evaluation (SAFE) report, Acceptable biological catch (ABC)/Over Fishing Limit (OFL), Plan Team report.

(2) Salmon bycatch—review (a) Chinook/chum genetics reports for Bering Sea (BS), Gulf of Alaska (GOA); and (c) Chum Salmon Bycatch initial review analysis.

(3) Amendment 80 Program Review—review report.

(4) Research Priorities—set 5-year priorities.

(5) Sablefish study for IRA funding—discuss for potential analysis.

The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/3040* prior to the meeting, along with meeting materials.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer-review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

Tuesday, April 2, 2024, Through Saturday, April 6, 2024

The Advisory Panel agenda will include the following issues:

(1) Scallops—SAFE report, ABC/OFL, Plan Team report.

(2) Salmon bycatch—review (a) Chinook/chum genetics reports BS and GOA, and (c) Chum Salmon Bycatch initial review analysis.

(3) Area 4 Vessel Caps—Initial Review.

(4) Amendment 80 Program Review—review report.

(5) Maximum retention amount adjustments—review discussion paper.

(6) Research Priorities set 5-year priorities.

(7) Staff Tasking.

Wednesday, April 3, 2024

The Executive/Finance Committee will meet in closed session to discuss Council finances and internal administrative matters.

Thursday, April 4, 2024, Through Tuesday, April 9, 2024

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

(1) B Reports (Executive Director, NMFS Management, NOAA General Counsel (GC), Alaska Fishery Science Center (AFSC), Alaska Department of Fish and Game (ADF&G), United States Coast Guard (USCG), United States Fish and Wildlife Service (USFWS), National Institute for Occupational Safety & Health (NIOSH) report, Cooperative reports, Advisory Panel, SSC report).

(2) Scallops—SAFE report, ABC/OFL, Plan Team report.

(3) Salmon bycatch—review (a) Chinook/chum genetics reports BS and GOA; (b) pollock IPA reports, Sea Share, and (c) Chum Salmon Bycatch initial review analysis.

(4) Area 4 Vessel Caps—Initial Review.

(5) Amendment 80 Program Review—review report.

(6) Maximum retention amount adjustments—review discussion paper.

(7) Research Priorities set 5-year priorities.

(8) Staff Tasking.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://www.npfmc.org/upcoming-council-meetings.* For technical support, please contact our administrative staff, email: *npfmc.admin@noaa.gov.*

If you are attending the meeting in-person, please refer to the COVID avoidance protocols on our website, *https://www.npfmc.org/upcoming-council-meetings/.*

Public Comment

Public comment letters will be accepted and should be submitted electronically through the links at *https://www.npfmc.org/upcoming-council-meetings.* The Council strongly encourages written public comment for this meeting, to avoid any potential for technical difficulties to compromise oral testimony. The written comment period is open from March 8, 2024, to March 29, 2024, and closes at 12 p.m., Alaska Time on Friday, March 29, 2024.

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

Dated: March 8, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–05325 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Renewal of the Advisory Committee on Excellence in Space, Formerly the Advisory Committee on Commercial Remote Sensing

ACTION: Notice.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, as amended (FACA), the Department of Commerce has renewed and renamed the Advisory Committee on Commercial Remote Sensing (ACCRES) as the Advisory Committee on Excellence in Space (ACES), determining this action to be in the public interest in connection with the performance of duties imposed on the Department by law. ACCRES was

renewed and renamed as ACES on March 4, 2024.

SUPPLEMENTARY INFORMATION: The Committee was first established in May 2002 to advise the Under Secretary of Commerce for Oceans and Atmosphere on matters relating to the U.S. commercial remote sensing industry and NOAA's activities to carry out the responsibilities of the Department of Commerce set forth in the National and Commercial Space Programs Act of 2010 (the Act), title 51 U.S.C. 60101 *et seq.* (formerly the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5621–5625).

ACES will have a fairly balanced membership consisting of no more than 25 members serving in a representative or Special Government Employee capacity. The members should represent a variety of space policy, engineering, technical, science, legal, and finance professionals with significant expertise in the commercial space industry. Each candidate member shall be recommended by the Director of NOAA's Office of Space Commerce (OSC) and shall be appointed by the Under Secretary or the OSC Director, generally for a term of two years and serve at the discretion of the Under Secretary or OSC Director.

The Committee will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act. Copies of the Committee's revised Charter have been filed with the appropriate committees of the Congress and with the Library of Congress.

FOR FURTHER INFORMATION CONTACT: Jason Y. Kim, Chief of Staff, NOAA Office of Space Commerce, 1401 Constitution Ave. NW, Room 68015, Washington, DC 20230; telephone 202–482–6125; email *space.commerce@noaa.gov.*

Michael C. Morgan,

Assistant Secretary for Environmental Observation and Prediction.

[FR Doc. 2024–05284 Filed 3–12–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD786]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. The exempted fishing permit would allow federally permitted fishing vessels to fish outside fishery regulations in support of exempted fishing activities proposed by the Maine Department of Marine Resources. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permits (EFP).

DATES: Comments must be received on or before March 28, 2024.

ADDRESSES: You may submit written comments by the following method:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''MDMR 2024 On-demand EFP''

All comments received are a part of the public record and will generally be posted for public viewing in *https://www.noaa.gov/organization/information-technology/foia-reading-room* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''anonymous'' as the signature if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Christine Ford, Fishery Management Specialist, *Christine.Ford@noaa.gov,* (978) 281–9185.

SUPPLEMENTARY INFORMATION: The Maine Department of Marine Resources (MDMR) submitted a complete application for an EFP to conduct commercial fishing activities that the regulations would otherwise restrict to test alternative gear retrieval systems that only use one traditional surface buoy. This EFP would exempt the participating vessels from the following Federal regulations:

TABLE 1—REQUESTED EXEMPTIONS

CFR citation	Regulation	Need for exemption
50 CFR 697.21(b)(2)	Gear marking requirements	For trial of trap/pot gear with no more than one surface marking on trawls of more than three traps.
50 CFR 648.84(b)	Gear marking requirements	For trial of gillnet gear with no more than one surface marking.

TABLE 2—PROJECT SUMMARY

Project title	Testing various acoustic on-demand fishing technologies that help minimize the risk of large whale entanglements in trap/pot and gillnet fishing gear in the Gulf of Maine.
Project Start	Upon Issuance.
Project End	One year from the date of issuance.
Project objectives	Provide access, training, and support to fishers in the Gulf of Maine to test acoustic on-demand fishing and gear geolocation technology. Data collected will help provide feedback to manufacturers to adapt to the specific needs of Maine fishers involved in fixed gear fleets. This work is important to reduce the risk associated with vertical lines to the endangered North Atlantic right whale in the Gulf of Maine.
Project location	Trap/pot: Lobster Management Area 1 and all Maine Lobster Conservation Zones (A, B, C, D, E, F, G). Gillnet: Statistical Areas 513, 514, 515.
Number of vessels	50 (up to 45 trap/pot; up to 5 gillnet).

TABLE 2—PROJECT SUMMARY—Continued

Number of trips, trip duration (days), total number of days, number of tows or sets, and duration of tows or sets.	See project narrative.
Gear type(s)	Trap/pot and anchored gillnet.

Project Narrative

This EFP would allow federally permitted vessels to test alternative gears to reduce entanglement risk to protected species, mainly the North Atlantic right whale, in trap/pot and sink gillnet fisheries. There are two components to this EFP, a gear library component, which is an assortment of devices and technologies to retrieve gear, and a gear geolocation component.

For the gear library component, participating vessels would replace one traditional surface marking with a spring-tag or timed-release retrieval system, a buoy and stowed-rope system, or a lift-bag system. A spring-tag retrieval system uses a low breaking strength (<1,700 pounds (lb) (<771 kilograms (kg))) buoy line that releases a stowed retrieval line of greater breaking strength when subjected to tension (>75 lb (>34 kg)). A timed-release retrieval system releases a stowed line after a programmed pre-set soak time. A buoy and stowed-rope system or a lift-bag system uses an acoustic trigger sent from the vessel to release the retrieval system, once the vessel is in close proximity to the gear. Each vessel would modify two trawls or strings by replacing one of the traditional vertical lines with one of the available on-demand retrieval systems, resulting in no additional vertical lines in the water. Vessels would be required to use one traditional surface marking on the other end of trap trawls of more than three traps and on all gillnet gear. For trap trawls of fewer than three traps, vessels would still use one traditional surface marking, in addition to the on-demand retrieval system; therefore, there would be no fully ropeless trawls. Other than gear markings, all trap trawls and gillnet strings would be consistent with the regulations of the management area where the vessel is fishing and would be fished in accordance with the participating vessels' standard operations (*i.e.,* number and length of trips, soak times, trap limits, etc.).

The gear geolocation component of this project will include a subset (up to 10) of the trap/pot vessels participating in the gear library component. Vessels would use acoustic positioning systems from any of the five available manufacturers (Teledyne Benthos, Ropeless Systems, Ashored, Nova Robotics, and Advanced Navigation), and would modify up to three trawls by replacing one of the traditional vertical lines with either a buoy and stowed-rope system or a lift-bag system to communicate with the acoustic positioning systems. The trawls would be set at different distances apart, within a density slightly greater than common gear densities, allowed to soak no longer than one hour each, and then be retrieved in rapid succession. The focus of this component would be testing the acoustic positioning systems to determine the extent of difference between acoustic geolocation and surface buoy or surface GPS geolocation, as well as testing the performance of the different acoustic positioning systems in an environment where multiple acoustic signals are being transmitted simultaneously. Up to 10 discrete single-day gear geolocation trials would be conducted within the fishing year. These trials would increase trap/pot effort via short soaks and high rate of retrieval. However, catch per unit effort would be reduced. Any legal catch would be kept for sale.

MDMR researchers anticipate up to 5,200 total hauls of hybrid trap/pot trawls or gillnet strings for the gear library component, and up to an additional 150 retrievals of hybrid trap/pot trawls for the gear geolocation component. Trap trawls would be consistent with Atlantic Large Whale Take Reduction Plan (ALWTRP) regulations. Trawls would not exceed 50 traps per trawl and the gear library component trawls would soak for approximately 3 days (and not more than 30 days). Gillnets would be consistent with ALWTRP and Harbor Porpoise Take Reduction Plan (HPTRP) regulations. Gillnets would use 15–30.5 centimeters (cm) mesh, would not exceed 3,200 meters (m), and would soak for a period of approximately 24 hours (and not more than 30 days).

To ensure broad participation and target areas where data is needed, MDMR has requested the flexibility to modify the participant vessel list and would submit modifications to the active participants list one month in advance. MDMR and the gear manufacturers will distribute gear and train all participants on its use. Scientific observers may accompany the participants on up to two trips per vessel, within budget and safety limitations. MDMR would provide standardized data collection sheets to all participants, but individually identifiable data will only be made public with the express permission of the vessel owner. Additionally, MDMR has requested an EFP Interactive Voice Response (IVR) reporting waiver for those trap/pot vessels not typically subject to IVR reporting; the applicant states that this requirement is a barrier to fishermen recruitment to this project, and is duplicative of the required eVTR reporting.

The project objectives are to: (1) Collect data on deployments and retrievals of various acoustic on-demand fishing gears within the trap/pot and gillnet fisheries in the Gulf of Maine; (2) provide support and training to fishers on various on-demand technologies; (3) assess fishing areas that may be best suited for adopting the tested retrieval systems; (4) increase familiarity within the trap/pot and gillnet fisheries with on-demand gear; (5) provide feedback to on-demand fishing gear manufacturers to increase performance under commercial fishery conditions; (6) trial gear geolocation and marking systems that promote interoperability for fishers and management; and (7) compare the relative precision of various gear geolocation technologies to improve understanding of how transitioning to acoustic technologies may impact fishing behavior.

MDMR has proposed the following best management and risk reduction practices:

- Experimental buoy lines would be marked with unique white and blue markings above the required regional markings;
- All vessels would provide mandatory, weekly gear loss and conflict reports to the Principal Investigator (PI), and the PI would provide monthly gear loss and conflict reports to the NOAA Greater Atlantic Regional Fisheries Office;
- After release, the on-demand vertical lines would be retrieved as quickly as possible to minimize time in the water column;
- All vessels would record right whale sightings on data sheets, and would notify NMFS via email

(*ne.rw.survey@noaa.gov*), or NOAA via phone (866–755–6622), or the U.S. Coast Guard (Channel 16);

- All vessels would adhere to a 10-knot speed limit when transiting dynamic management areas, transiting areas closed to vertical lines, and/or when whales are observed;
- All vessels would adhere to current approach regulations that create a 500-yard (1,500-feet (ft)) buffer zone in the presence of a surfacing right whale and would depart immediately at a safe and slow speed. Hauling any fishing gear would cease once the entire string or trawl was aboard the vessel, to accommodate the regulation, and be redeployed only after it was reasonable to assume the whale left the area; and
- Law enforcement would be able to inspect gear at any time because one traditional surface-marking would be present at all times. The PI would notify law enforcement agencies (NOAA Office of Law Enforcement (OLE) and Maine Marine Patrol) of project participants and activities in advance of the project start date, including:
  - Materials related to the redeployment of alternative gear-retrieval systems, most relevant to the spring-tagline retrieval system; and
  - Information necessary to continue relevant enforcement operations with participant gear.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: March 7, 2024.

Everett Wayne Baxter,

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

[FR Doc. 2024–05262 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RTID 0648–XD796

Marine Mammals and Endangered Species; File No. 27671

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Northwest Fisheries Science Center, Marine Forensic Laboratory, 2725 Montlake Blvd. East, Seattle, WA 98112 (Kevin Werner, Ph.D., Responsible Party), has applied in due form for a permit to receive, import, and export marine mammal and protected species parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before April 12, 2024.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 27671 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 27671 in the subject line of the email comment.

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

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to receive, import, and export samples from up to 100 individual animals from each species of all cetaceans, pinnipeds (excluding walrus), sea turtles (in water), coral, and individual species of fish and abalone listed under the ESA including: black and white abalone, Pacific and Atlantic salmonids, sawfish, sturgeon, sharks, grouper, rockfish, guitarfish, and totoaba. Receipt, import, and export is requested worldwide. Sources of samples may include animal strandings in foreign countries, foreign and domestic subsistence harvests, captive animals, other authorized persons or collections, incidentally bycaught animals, transfers from law enforcement, and marine mammals that died incidental to commercial fishing operations in the U.S. and foreign countries, where such take is legal. Samples would be archived at the Marine Forensics Laboratories in either Charleston, South Carolina, Seattle, Washington, and Ashland, Oregon. Samples would be used for research, supporting law enforcement actions, and outreach and education. No live takes from the wild would be authorized. The requested duration of the permit is 5 years.

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

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

Dated: March 7, 2024.

Julia Marie Harrison,

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

[FR Doc. 2024–05261 Filed 3–12–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors, National Defense University; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Chairman Joint Chiefs of Staff, Department of Defense (DoD).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Board of Visitors, National Defense University (BoV NDU) will take place.

DATES: Thursday, April 18, 2024 from 9:00 a.m. to 3:15 p.m. Eastern Time (ET).

ADDRESSES: Marshall Hall, Building 62, Room 155, the National Defense

University, 300 5th Avenue SW, Fort McNair, Washington, DC 20319–5066. Visitors should report to the Front Security Desk in the lobby of Marshall Hall and from there, they will be directed to the meeting room.

FOR FURTHER INFORMATION CONTACT: Ms. Joycelyn Stevens, (202) 685–0079 (Voice) *joycelyn.a.stevens.civ@mail.mil; stevensj7@ndu.edu* (Email). Mailing address is National Defense University, Fort McNair, Washington, DC 20319–5066. Website: *http://www.ndu.edu/About/Board-of-Visitors/.* The most up-to-date changes to the meeting agenda can be found at *https://www.ndu.edu/About/Board-of-Visitors/BOV-Apr-18-2024.*

SUPPLEMENTARY INFORMATION: This meeting is being held in accordance with chapter 10 of title 5 United States Code (U.S.C.) (formerly known as the Federal Advisory Committee Act (FACA) (5 U.S.C., App.)) and under the provisions of the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) and 41 CFR 102–3.140 and 102–3.150. Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public.

Purpose of the Meeting: The purpose of the meeting will include discussion on accreditation compliance, organizational management, resource management, and other matters of interest to the NDU.

Agenda: Thursday, April 18, 2024 from 9:00 a.m. to 3:15 p.m. Call to Order and Administrative Notes; State of the University Address; Reaffirmation of Middle States Commission on Higher Education Accreditation Update; Cybersecurity Update and Path Forward; Budget Outlook; National Defense Authorization Act Facilities Report Summary and Cost Model Findings; Realizing the Vision 2022–2027: NDU Implementation Plan; Command Climate; NATO Conference of Commandants; Discussion of Public Written Comments; Board of Visitors Member Deliberation and Feedback; Wrap-up and Closing Remarks.

Meeting Accessibility: Limited space is available for observers and will be allocated on a first come, first served basis. Meeting location is handicap accessible. The Main Gate/Visitor's Gate on 2nd Street SW is open 24/7. All Non-DoD, Non-federally-affiliated visitors must use this gate to access Fort McNair.

Base Access Requirements: All visitors without a DoD Common Access Card or U.S. military ID must be vetted in advance to gain entry onto the base. Per the U.S. Army, all non-DoD civilians are required to have a background check before being allowed on a military installation; better known as vetting. It is highly recommended that visitors undergo the pre-vetting process and apply online as detailed below.

For Pre-vetting: To allow sufficient time for processing, access requests should be submitted no more than 14 days ahead or less than three days before the event. The visitor will receive notification via email, and, if approved, a one-day visitor's pass for entry onto the base. The visitor must print the pass and present it to the guard at the gate to enter Fort McNair.

(a) If the visitor has a valid U.S. driver's license:

(i) The visitor can apply for access online at *https://pass.aie.army.mil/jbmhh/.* Under Reason for Visit, select ''Other.'' Alternatively, the visitor can apply in person at the Fort McNair Visitor Control Center (VCC)/Police Substation (Building 65) from 8:00 a.m. to 4:00 p.m. Monday through Friday.

(b) If the visitor does not have a U.S. driver's license:

(i) The visitor must fill out a paper application in person at the Fort McNair Visitor Control Center VCC/Police Substation (Building 65) from 8:00 a.m. to 4:00 p.m. Monday through Friday.

For Vetting the Day of the Event:

The visitor must apply in person at the Fort McNair VCC/Police Substation (Building 65) from 8:00 a.m. to 4:00 p.m. Monday through Friday. The visitor should plan to arrive early, as the procedure for running background checks and issuing passes can take much longer than expected.

For additional information, please go to *https://home.army.mil/jbmhh/index.php/my-fort/all-services/access-gate-info.*

Vehicle Search: Non-DoD, Non-federally-affiliated visitors' vehicles are subject to search.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, written statements to the committee may be submitted to the committee at any time or in response to a stated planned meeting agenda by email or fax to Ms. Joycelyn Stevens at *bov@ndu.edu* or Fax (202) 685–3920. Any written statements received by 5:00 p.m. on Wednesday, April 17 will be distributed to the BoV NDU in the order received. Comments pertaining to the agenda items will be discussed during the public meeting. Any written statements received after the deadline will be provided to the members of the BoV NDU prior to the next scheduled meeting and posted on the website.

Dated: March 7, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05347 Filed 3–12–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Braille Training Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2024 for the Braille Training program, Assistance Listing Number 84.235E. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: March 13, 2024.

Deadline for Transmittal of Applications: May 13, 2024.

Date of Pre-Application Meeting: No later than March 18, 2024, the Office of Special Education and Rehabilitative Services (OSERS) will post a PowerPoint Presentation specifically about the Braille Training program at *https://ncrtm.ed.gov/grant-info.* In addition to posting the PowerPoint, OSERS will conduct a pre-application meeting specific to this competition via conference call to respond to questions. Information about the pre-application meeting will be available at *https://ncrtm.ed.gov/grant-info* prior to the date of the call. OSERS invites you to send questions to *84.235E@ed.gov* in advance of the pre-application conference call. A summary of questions and responses will be available at *https://ncrtm.ed.gov/grant-info* within six business days after the pre-application conference call.

Deadline for Intergovernmental Review: July 11, 2024.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045), and available at *www.federalregister.gov/d/2022-26554.*

FOR FURTHER INFORMATION CONTACT: Theresa DeVaughn, U.S. Department of Education, 400 Maryland Avenue SW, Room 4A110, Washington, DC 20202–5076. Telephone: (202) 987–0144. Email: *84.235E@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 Braille Training program offers financial assistance to projects that will (1) provide training in the use of braille for personnel providing vocational rehabilitation (VR) services or educational services to youth and adults who are blind; (2) develop braille training materials; (3) develop methods used to teach braille; and (4) develop activities used to promote the knowledge and use of braille and nonvisual access technology for youth and adults who are blind.

Background: The Braille Training program partners with States and public nonprofit agencies and organizations, including institutions of higher education, to provide information, material, equipment, and training in braille instruction. The support provided by the program will increase the knowledge and skills of personnel providing VR services or educational services to youth and adults who are blind.

The Department's invitational priorities align with the Secretary's Supplemental Priorities published in the **Federal Register** on December 10, 2021 (86 FR 70612) to encourage applicants to promote educational equity and adequacy in resources and opportunities for underserved students, increase the proportion of well-prepared, diverse, and effective educators serving students, with a focus on underserved students, and to encourage applicants to incorporate innovative technology into the project design and delivery of services.

Priorities: This notice includes one absolute priority and three invitational priorities. In accordance with 34 CFR 75.105(b)(2)(v), the absolute priority is from section 303(d) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 773(d)).

Absolute Priority: For FY 2024 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

The priority is:

Braille Training Program

Under this priority, we provide grants for the establishment or continuation of projects that provide—

(1) Development of braille training materials;

(2) In-service or pre-service training in the use of braille, the importance of braille literacy, and methods of teaching braille to youth and adults who are blind; and

(3) Activities to promote knowledge and use of braille and nonvisual access technology for blind youth and adults through a program of training, demonstration, and evaluation conducted with leadership of experienced blind individuals, including the use of comprehensive, state-of-the-art technology.

Invitational Priorities: For FY 2024 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets one or more of these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1

Projects designed to promote educational equity and adequacy in resources for underserved students and adults who are blind, especially those located in rural areas, in one of more of the following educational settings: (1) Early learning programs, (2) Elementary school, (3) Middle school, (4) High school, (5) Career and technical education programs, (6) Out-of-school-time settings, (7) Alternative schools and programs, (8) Juvenile justice-system or correctional facilities, and (9) Adult learning. Projects will expand access to high-quality braille training, including in school-based and community-based settings, by providing braille instruction in the areas of literacy and Science, Technology, Engineering, and Math (STEM), including mathematical and scientific notations, and by removing barriers through implementation of programs that are inclusive with regard to race, ethnicity, culture, language, and disability status.

Invitational Priority 2

Projects designed to increase the number and proportion of experienced and effective braille educators and instructors from traditionally underrepresented backgrounds or the communities they serve, including rural areas, to ensure that underserved students and adults, including those in rural areas, have educators from those backgrounds and communities, and are not taught at disproportionately higher rates by out-of-field and novice teachers compared to their peers. Projects will also identify and disseminate pedagogical practices in braille training that are inclusive with regard to race, ethnicity, culture, language, and disability status so that braille educators and instructors are better prepared to create inclusive, supportive, equitable, unbiased, and identity-safe learning environments for underserved students and adults who are blind.

Invitational Priority 3

Projects that design and deliver instruction to individuals who are blind that effectively integrate innovative technology and provide opportunities for individuals who are blind to apply braille technology in authentic and real-world settings, such as project-based, work-based, or other relevant experiential learning opportunities that will allow individuals with disabilities who are blind to think critically, solve complex problems, communicate and collaborate with others, and support their educational and career goals.

Under this invitational priority, innovative technology that could be integrated into the project design includes, but is not limited to: (1) Braille translation, such as software that converts text from digital formats (*i.e.,* websites, e-books) into braille; (2) Braille displays, such as converting digital text into braille characters; (3) Voice assistants that can provide audio feedback to braille users, helping them navigate and interact with digital interfaces more efficiently; (4) Language driven translation tools that can be adapted to translate content from one language to another and provide the output in braille, making it easier for braille users to access information in multiple languages; (5) Braille notation to assist in creating braille notation in STEM and art, making these fields more accessible to braille users; (6) Descriptive media to explain visual information needed to understand content; (7) Technology that generates braille controlled (*i.e.,* limited use of certain syllable types, such as phonemes, and braille contractions) specific passages and stories for individuals who are blind based on their abilities and skill sets; and (8) Other relevant innovative technology to promote knowledge and use of braille and nonvisual access technology for individuals who are blind. The use of any technology in this list is not required, and the use of any example does not provide an applicant any advantage in this competition. The list is included to assist the applicant in understanding the invitational priority.

Definitions

For purposes of the invitational priorities, the following definitions apply:

Children or students with disabilities means children with disabilities as defined in section 602(3) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1401(3)) and 34 CFR 300.8, or students with disabilities, as defined in the Rehabilitation Act of 1973 (29 U.S.C. 705(37)).

Educator means an individual who is an early learning educator, teacher, principal, or other school leader, specialized instructional support personnel (*e.g.,* school psychologist, counselor, school social worker, early intervention service personnel), paraprofessional, or faculty.

English learner means an individual who is an English learner as defined in section 8101(20) of the Elementary and Secondary Education Act of 1965, as amended, or an individual who is an English language learner as defined in section 203(7) of the Workforce Innovation and Opportunity Act.

Underserved student means a student (which may include children in early learning environments, students in K–12 programs, students in postsecondary education or career and technical education, and adult learners, as appropriate) in one or more of the following subgroups:

(a) A student who is living in poverty or is served by schools with high concentrations of students living in poverty.

(b) A student of color.

(c) A student who is a member of a federally recognized Indian Tribe.

(d) An English learner.

(e) A child or student with a disability.

(f) A disconnected youth.

(g) A technologically unconnected youth.

(h) A migrant student.

(i) A student experiencing homelessness or housing insecurity.

(j) A lesbian, gay, bisexual, transgender, queer or questioning, or intersex (LGBTQI+) student.

(k) A student who is in foster care.

(l) A student without documentation of immigration status.

(m) A pregnant, parenting, or caregiving student.

(n) A student impacted by the justice system, including a formerly incarcerated student.

(o) A student who is the first in their family to attend postsecondary education.

(p) A student enrolling in or seeking to enroll in postsecondary education for the first time at the age of 20 or older.

(q) A student who is working full-time while enrolled in postsecondary education.

(r) A student who is enrolled in or is seeking to enroll in postsecondary education who is eligible for a Pell Grant.

(s) An adult student in need of improving their basic skills or an adult student with limited English proficiency.

(t) A student performing significantly below grade level.

(u) A military- or veteran-connected student.

Program Authority: 29 U.S.C. 773(d).

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, 81, 82, 84, 86, 97, 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.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Grant.

Estimated Available Funds: $342,000.

The Administration has requested $7.3 million for the Training and Demonstration Programs for FY 2024, of which we intend to use $342,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

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 from this competition.

Estimated Average Size of Awards: Year 1: $115,000; Years 2–5: $230,000.

Maximum Award: Year 1: We will not make an award exceeding $115,000 for the first budget period of 12 months; Years 2–5: We will not make an award exceeding $230,000 for each budget period of 12 months.

Note: Applicants must describe, in their applications, the amount of funding being requested for each 12-month budget period.

Estimated Number of Awards: 3.

Project Period: Up to 60 months.

Note: The Department is not bound by any estimates in this notice.

III. Eligibility Information

1. *Eligible Applicants:* States and public or nonprofit agencies and organizations, including institutions of higher education.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c), a grantee under this competition may not award subgrants to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR 200.317–200.326, Procurement Standards.

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.

2. *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 competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *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 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots. Applicants are expected to make the contents of their application accessible for individuals with disabilities to the maximum extent possible. Tutorials and resources for making documents accessible are available for free on RSA's National Clearinghouse for Rehabilitation Training Materials at *https://ncrtm.ed.gov/accessibility-resources.*

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210, have a maximum score of 100 points, and are as follows:

(a) Need for project. (10 points)

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project;

(ii) The extent to which the proposed project will prepare personnel for fields in which shortages have been demonstrated; and

(iii) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(b) Quality of the project design. (20 points)

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(ii) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project;

(iii) 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;

(iv) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice; and

(v) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

(c) Quality of project services. (25 points)

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) 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.

(3) In addition, the Secretary considers the following factors:

(i) The likely impact of the services to be provided by the proposed project on the intended recipients of those services;

(ii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services;

(iii) 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; and

(iv) The extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies.

(d) Quality of the project evaluation. (25 points)

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes (as defined in 34 CFR 77.1(c));

(iii) The extent to which the methods of evaluation will, if well implemented, produce promising evidence (as defined in 34 CFR 77.1(c)) about the project's effectiveness;

(iv) 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;

(v) The qualifications, including relevant training, experience, and independence, of the evaluator;

(vi) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies; and

(vii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(e) Quality of the management plan. (20 points)

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) 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 milestone for accomplishing project tasks;

(ii) 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;

(iii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project; and

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

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).

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 use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may approve a data collection period for a grant for a period of up to 72 months after the end of the project period and provide funding, separate from this funding opportunity, for the data collection period for the sole purpose of collecting, analyzing, and

reporting performance measurement data regarding the project.

5. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, grantees must submit information to allow measurement of project outcomes and performance consistent with its approved application. For the Braille Training program, a grantee must collect and report information on:

(a) The number of participants who attend the program disaggregated by adults and youth.

(b) The number of participants who successfully complete the program disaggregated by adults and youth.

(c) The number of personnel who attend the program.

(d) The number of personnel who successfully complete the program.

(e) The number of trained personnel who subsequently report obtaining or advancing in positions where they provide braille instruction to blind youth and adults following completion of the program.

Grantees are required to report annually to the Rehabilitation Services Administration (RSA) on these data.

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: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Glenna Wright-Gallo,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2024–05290 Filed 3–12–24; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Agency Information Collection Activities

Election Supporting Technology Evaluation Program Anomaly Reporting Forms

AGENCY: Election Assistance Commission.

ACTION: Notice; request for comment.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the U.S. Election Assistance Commission (EAC) gives notice that it is requesting from the Office of Management and Budget (OMB) approval for the information collection of one Election Supporting Technology Evaluation form. The information collected is to be used to improve the quality of election-supporting technology used in federal elections, and to collect necessary key information on election-supporting technology anomalies. Participation in this program is voluntary.

DATES: Comments must be received by 5 p.m. Eastern on Monday, May 13, 2024.

ADDRESSES: Comments on the proposed form should be submitted electronically via *https://www.regulations.gov* (docket ID: EAC–2024–0001).

Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 633 3rd Street NW, Suite 200, Washington, DC 20001, Attn: Election Supporting Technology Evaluation Program.

FOR FURTHER INFORMATION CONTACT: Jenniffer Day, Election Technology Specialist, Election Supporting Technology Evaluation Program, Washington, DC, (202) 578–6641. Email: *ESTEP@eac.gov.*

All requests and submissions should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Election Supporting Technology Evaluation Anomaly Reporting Forms

OMB Number Pending.

Purpose

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act (PRA) of 1995, EAC is submitting to the Office of Management and Budget (OMB) a request for review and approval of the information collection described. The purpose of this notice is to allow 60 days for public comment from all interested individuals and organizations.

The EAC Election Supporting Technology Evaluation Program evaluates the security and accessibility of election-supporting technologies, including electronic poll books, voter registration systems, electronic ballot delivery systems, and election night reporting databases. The program is to publish two forms. These forms are to be used to collect initial anomaly information and anomaly root cause analysis as reported by election officials and election-supporting technology manufacturers. The information collected will be used to improve the quality of election-supporting technology used in federal elections.

Public Comments

We are soliciting public comments to permit the EAC to:

- Evaluate whether the proposed information collection is necessary and sufficient for the proper functions of the Election Supporting Technology Evaluation Program.
- Evaluate the accuracy of our estimate of burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of information technology.

Please note that comments submitted in response to this Notice are public

record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Respondents: Election Supporting Technology Manufacturers, State and Local Election Officials.

Annual Reporting Burden

OMB approval is requested for 3 years.

ANNUAL BURDEN ESTIMATES

Instrument	Estimated number of respondents	Total number of responses per year	Average burden hours per response	Annual burden hours
ESTEP Anomaly Reporting Form	5	5	2	50
ESTEP Root Cause Anomaly Form	5	5	16	400
Total		10		450

The estimated cost of the annualized cost of this burden is: $37,800.

Camden Kelliher,

Acting General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2024–05302 Filed 3–12–24; 8:45 am]

BILLING CODE 4810–71–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

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

Filings Instituting Proceedings

Docket Numbers: RP24–514–000.

Applicants: Great Basin Gas Transmission Company.

Description: § 4(d) Rate Filing: 2024 Section 4 Rate Case to be effective 4/6/2024.

Filed Date: 3/6/24.

Accession Number: 20240306–5144.

Comment Date: 5 p.m. ET 3/18/24.

Docket Numbers: RP24–515–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Transcontinental Gas Pipeline Company, LLC submits tariff filing per 154.403: LSS, SS–2, and Firm and Interruptible Transportation Fuel Percentages Tracker to be effective 4/1/2024.

Filed Date: 3/7/24.

Accession Number: 20240307–5035.

Comment Date: 5 p.m. ET 3/19/24.

Docket Numbers: RP24–516–000.

Applicants: Enable Mississippi River Transmission, LLC.

Description: § 4(d) Rate Filing: Update GT&C Section 8 to be effective 4/7/2024.

Filed Date: 3/7/24.

Accession Number: 20240307–5050.

Comment Date: 5 p.m. ET 3/19/24.

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

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

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

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

Dated: March 7, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–05329 Filed 3–12–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–1420–000

Sierra Estrella Energy Storage 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 Sierra Estrella Energy Storage 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 27, 2024.

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.

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

Dated: March 7, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–05327 Filed 3–12–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

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

Filings Instituting Proceedings

Docket Numbers: CP24–76–000.

Applicants: Cardinal States Gathering Company LLC.

Description: Cardinal States Gathering Company LLC submits Application for a limited jurisdiction Certificate of Public Convenience and Necessity to provide the limited receipt and transportation of pipeline-quality gas service etc.

Filed Date: 3/1/24.

Accession Number: 20240301–5166.

Comment Date: 5 p.m. ET 3/22/24.

Docket Numbers: RP24–510–000.

Applicants: Adelphia Gateway, LLC.

Description: Compliance filing: Adelphia Gateway OPS Report Filing to be effective N/A.

Filed Date: 3/6/24.

Accession Number: 20240306–5019.

Comment Date: 5 p.m. ET 3/18/24.

Docket Numbers: RP24–511–000.

Applicants: Empire Pipeline, Inc.

Description: 4(d) Rate Filing: Fuel Tracker (Empire Tracking Supply Storage 2024) to be effective 4/1/2024.

Filed Date: 3/6/24.

Accession Number: 20240306–5041.

Comment Date: 5 p.m. ET 3/18/24.

Docket Numbers: RP24–512–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: 4(d) Rate Filing: Non-Conforming Agreement (Trafigura) April 2024 to be effective 4/1/2024.

Filed Date: 3/6/24.

Accession Number: 20240306–5048.

Comment Date: 5 p.m. ET 3/18/24.

Docket Numbers: RP24–513–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: 4(d) Rate Filing: Negotiated Rates—Yankee Gas to Emera Energy to be effective 3/6/2024.

Filed Date: 3/6/24.

Accession Number: 20240306–5077.

Comment Date: 5 p.m. ET 3/18/24.

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

Filings in Existing Proceedings

Docket Numbers: RP18–75–008.

Applicants: Algonquin Gas Transmission, LLC.

Description: Compliance filing: AGT FRQ Settlement Extension 2024 to be effective N/A.

Filed Date: 3/6/24.

Accession Number: 20240306–5055.

Comment Date: 5 p.m. ET 3/18/24.

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

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

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

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

Dated: March 6, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–05230 Filed 3–12–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–1421–000]

Superstition Energy Storage 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 Superstition Energy Storage 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 27, 2024.

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.

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

Dated: March 7, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–05326 Filed 3–12–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–27–000]

Kern River Gas Transmission Company; Notice of Withdrawal of Staff Protest

Federal Energy Regulatory Commission (FERC or Commission) staff hereby withdraws its February 26, 2024 protest of the prior notice request filed under the provisions of the Commission's regulations at Part 157, subpart F, by Kern River Gas Transmission Company (Kern River) on December 15, 2023, for its proposed construction and operation of the Lanes Crossing Meter Station (Project). Staff's protest noted that Kern River did not provide a copy of a finding by the California State Historic Preservation Office (SHPO) of ''no historic properties'' or ''no historic properties effected.''

On March 6, 2024, at the request of Kern River, the California SHPO filed a letter noting its consultation with Kern River regarding the Project, and that no historic properties were identified within the area of potential effect. The SHPO stated that it did ''not object to a finding of no historic properties affected.'' Therefore, the application now meets the standards outlined in Appendix II of subpart F of section 157 of the Commission's regulations. This issue was resolved within 30 days of the protest as required by section 157.205(g) of the Commission's regulations. Based on the submission of the SHPO's findings for this Project, Commission staff withdraws its protest.

Dated: March 7, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–05328 Filed 3–12–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER18–533–005; ER22–48–002; ER18–538–006; ER18–537–005; ER18–535–005; ER18–280–007; ER18–536–005; ER12–1436–018; ER18–534–005.

Applicants: Montpelier Generating Station, LLC, Eagle Point Power Generation LLC, O.H. Hutchings CT, LLC, Lee County Generating Station, LLC, Yankee Street, LLC, Monument Generating Station, LLC, Sidney, LLC, Gridflex Generation, LLC, Tait Electric Generating Station, LLC.

Description: Supplement to June 30, 2023, Triennial Market Power Analysis for Northeast Region of Eagle Point Power Generation LLC, et al.

Filed Date: 3/6/24.

Accession Number: 20240306–5189.

Comment Date: 5 p.m. ET 3/27/24.

Docket Numbers: ER22–2230–000; ER13–1562–011; ER22–2233–000; ER22–2234–000; ER22–2235–000; ER22–2236–000; ER22–2231–000; ER22–2232–000; ER12–1931–012; ER10–2504–013; ER12–610–013; ER13–338–011; ER19–2260–001.

Applicants: Valentine Solar, LLC, Shiloh IV Lessee, LLC, Shiloh III Lessee, LLC, Shiloh Wind Project 2, LLC, Pacific Wind Lessee, LLC, Maverick Solar 7, LLC, Maverick Solar 6, LLC, Maverick Solar 4, LLC, Maverick Solar, LLC, Desert Harvest II LLC, Desert Harvest, LLC, Catalina Solar Lessee, LLC, BigBeau Solar, LLC.

Description: Supplement to June 29, 2022, Triennial Market Power Analysis BigBeau Solar, LLC, et al.

Filed Date: 3/6/24.

Accession Number: 20240306–5195.

Comment Date: 5 p.m. ET 3/27/24.

Docket Numbers: ER23–2935–002.

Applicants: Midcontinent Independent System Operator, Inc., Northern Indiana Public Service Company LLC.

Description: Tariff Amendment: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.17(b): 2024–03–07_Amendment NIPSCO Request for Depreciation Rates-Supplemental to be effective 8/1/2023.

Filed Date: 3/7/24.

Accession Number: 20240307–5025.

Comment Date: 5 p.m. ET 3/28/24.

Docket Numbers: ER24–1007–001.

Applicants: Black Hills Colorado Electric, LLC.

Description: Tariff Amendment: Amendment to Unreserved Use Penalty and Transmission Planning Updates to be effective 5/7/2024.

Filed Date: 3/7/24.

Accession Number: 20240307–5123.

Comment Date: 5 p.m. ET 3/28/24.

Docket Numbers: ER24–1421–000.

Applicants: Superstition Energy Storage LLC.

Description: Baseline eTariff Filing: Application for MBR Authorization and Request for Waivers to be effective 3/18/2024.

Filed Date: 3/6/24.

Accession Number: 20240306–5156.

Comment Date: 5 p.m. ET 3/27/24.

Docket Numbers: ER24–1422–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to AE2–226 ISA No. 6736 (amend_mcd) to be effective 5/7/2024.

Filed Date: 3/7/24.

Accession Number: 20240307–5067.

Comment Date: 5 p.m. ET 3/28/24.

Docket Numbers: ER24–1423–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2024–03–07_MEAN Integration Revisions to Schedules 7, 8, and 9 to be effective 6/1/2024.

Filed Date: 3/7/24.

Accession Number: 20240307–5133.

Comment Date: 5 p.m. ET 3/28/24.

Docket Numbers: ER24–1424–000.

Applicants: MidAmerican Energy Company.

Description: § 205(d) Rate Filing: Joint Pricing Zone Revenue Allocation Agreement (4th Rev) to be effective 6/1/2024.

Filed Date: 3/7/24.

Accession Number: 20240307–5167.

Comment Date: 5 p.m. ET 3/28/24.

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

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

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

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

Dated: March 7, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–05330 Filed 3–12–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2020–0020; FRL–11769–01–OECA]

Proposed Information Collection Request; Comment Request; Annual Public Water Systems Compliance Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Annual Public Water System Compliance Report'' (EPA ICR No. 1812.08, OMB Control No. 2020–0020) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through November 30, 2024. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before May 13, 2024.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OECA–2020–0020 online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Raquel Taveras, Monitoring, Assistance and Media Programs Division, Office of Compliance, MC–2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–9651; email address: *taveras.raquel@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through November 30, 2024. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

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

Abstract: Section 1414(c)(3)(A) of the Safe Drinking Water Act (SDWA) provides that each state (a term that includes states, commonwealths, tribes and territories) that has primary enforcement authority under the SDWA shall prepare, make readily available to

the public, and submit to the Administrator of EPA, an annual report of violations of national primary drinking water regulations in the state. These Annual State Public Water System Compliance Reports are to include violations of maximum contaminant levels, treatment requirements, variances and exemptions, and monitoring requirements determined to be significant by the Administrator after consultation with the states. To minimize a state's burden in preparing its annual statutorily required report, the EPA issued guidance that explains what section 1414(c)(3)(A) requires and provides model language and reporting templates. The EPA also annually makes available to the states a computer query that generates for each state (from information states are already separately required to submit to EPA's national database on a quarterly basis) the required violations information in a table consistent with the reporting template in the EPA's guidance.

Form Numbers: None.

Respondents/affected entities: Entities that are potentially affected by this action are states that have primacy enforcement authority and meet the definition of ''state'' under the SDWA.

Respondent's obligation to respond: Mandatory under section 1414 (c)(3)(A) of SDWA.

Estimated number of respondents: 55 (total).

Frequency of response: Annually.

Total estimated burden: 4,400 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $730,000 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden from the most recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Second, the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or operation and maintenance (O&M) costs. There is a slight increase in costs, which is wholly due to the use of updated labor rates. This ICR uses labor rates from the most recent Bureau of Labor Statistics report (December 2023) to calculate respondent burden costs.

Loren Denton,

Director, Monitoring Assistance and Media Programs Division, Office of Compliance.

[FR Doc. 2024–05285 Filed 3–12–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2024–0112; FRL–11804–01–OGC]

Proposed Settlement Agreement, Petition for Writ of Mandamus

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: Notice is given of a proposed settlement agreement to address a petition for writ of mandamus filed by the Ecology Center, the Center for Environmental Health, United Parents Against Lead & Other Environmental Hazards, and the Sierra Club (collectively, ''Petitioners'') in the United States Court of Appeals for the Ninth Circuit: *Ecology Center, et al.* v. *U.S. EPA,* No. 23–70158 (9th Cir.). Petitioners filed a petition for writ of mandamus on August 22, 2023, requesting that the Ninth Circuit direct the Environmental Protection Agency (EPA) to ''conclude a rulemaking under [TSCA] regulating lead wheel weights within six months.'' The mandamus petition alleges that EPA's 14-year delay violated the APA's requirement that a Federal agency ''conclude a matter presented to it . . . within a reasonable time,'' and that the court has the authority to ''compel agency action unlawfully withheld or unreasonably delayed.'' EPA is providing notice of this proposed settlement agreement, which would resolve all claims in the case by establishing deadlines for EPA to take final action.

DATES: Written comments on the proposed settlement agreement must be received by April 12, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2024–0112, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. 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 rulemaking process, see the ''Additional Information about Commenting on the Proposed Settlement Agreement'' heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Alyssa Gsell, Pesticides and Toxic Substances Law Office, Office of General Counsel, U.S. Environmental Protection Agency; telephone (202) 564–7413; email address *Gsell.Alyssa@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Settlement Agreement

The official public docket for this action (Docket ID No. EPA–HQ–OGC–2024–0112) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the OEI Docket is (202) 566–1752.

The electronic version of the public docket for this action contains a copy of the proposed settlement agreement and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

II. Additional Information About the Proposed Settlement Agreement

In 2009, Petitioners petitioned EPA under the Toxic Substances Control Act (''TSCA'') section 21, requesting that EPA regulate lead wheel weights. EPA granted the 2009 Petition but did not issue either an Advanced Notice of Proposed Rulemaking or a Proposed Rule.

On August 22, 2023, Petitioners filed a petition for writ of mandamus requesting that the Ninth Circuit direct EPA to ''conclude a rulemaking under [TSCA] regulating lead wheel weights within six months.'' The mandamus petition alleged that EPA's 14-year delay violated the APA's requirement that a

Federal agency ''conclude a matter presented to it . . . within a reasonable time,'' 5 U.S.C. 555(b), and that the court had authority to ''compel agency action unlawfully withheld or unreasonably delayed.'' *Id.* sec. 706.

In accordance with the EPA's ''Consent Decrees and Settlement Agreements to Resolve Environmental Claims Against the Agency'' (March 18, 2022), for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to a proposed settlement agreement for these claims. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, or inadequate.

III. Additional Information About Commenting on the Proposed Settlement Agreement

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2024–0112, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. 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.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Randolph L. Hill,

Associate General Counsel.

[FR Doc. 2024–05287 Filed 3–12–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 207973]

Open Commission Meeting Thursday, March 14, 2024

March 7, 2024.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 14, 2024, which is scheduled to commence at 10:30 a.m. in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC.

While attendance at the Open Meeting is available to the public, the FCC headquarters building is not open access and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees at the Open Meeting will not be required to have an appointment but must otherwise comply with protocols outlined at: *www.fcc.gov/visit.* Open Meetings are streamed live at: *www.fcc.gov/live* and on the FCC's YouTube channel.

Item No.	Bureau	Subject
1	Public Safety & Homeland Security	*Title:* Cybersecurity Labeling for Internet of Things (PS Docket No. 23–239). *Summary:* The Commission will consider a Report and Order to create a voluntary cybersecurity labeling program for wireless consumer Internet of Things (IoT) products, which would help consumers make informed purchasing decisions, differentiate trustworthy products in the marketplace, and create incentives for manufacturers to meet higher cybersecurity standards.
2	Wireline Competition	*Title:* Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion (GN Docket No. 22–270). *Summary:* The Commission will consider the draft 2024 Section 706 Report, which, if adopted, would fulfill the Commission's statutory responsibility under section 706 of the Telecommunications Act of 1996 and raise the fixed speed benchmark for advanced telecommunications capability to 100/20 Mbps.
3	Wireless Telecommunications and Space	*Title:* Single Network Future: Supplemental Coverage from Space (GN Docket No. 23–65); Space Innovation (IB Docket No. 22–271). *Summary:* The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking that would advance the Commission's vision for a single network future in which satellite and terrestrial networks work seamlessly together to provide coverage for consumer handsets that neither network can achieve on its own.
4	Media	*Title:* All-In Cable and Satellite TV Pricing (MB Docket No. 23–203).

Item No.	Bureau	Subject
5	Consumer & Governmental Affairs	*Summary:* The Commission will consider a Report and Order to require cable and satellite TV providers to specify the ''all-in'' price for video programming services in promotional materials and on subscribers' bills in order to allow consumers to make informed choices. *Title:* Wireless Emergency Alerts (PS Docket No. 15–91); Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System (PS Docket No. 15–94). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that would propose to facilitate the more efficient and widespread dissemination of alerts and coordinated responses to incidents involving missing and endangered persons, an issue that is particularly prevalent in Tribal communities.

* * * * *

The meeting will be webcast at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

Press Access—Members of the news media are welcome to attend the meeting and will be provided reserved seating on a first-come, first-served basis. Following the meeting, the Chairwoman may hold a news conference in which she will take questions from credentialed members of the press in attendance. Also, senior policy and legal staff will be made available to the press in attendance for questions related to the items on the meeting agenda. Commissioners may also choose to hold press conferences. Press may also direct questions to the Office of Media Relations (OMR): *MediaRelations@fcc.gov.* Questions about credentialing should be directed to OMR.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2024–05313 Filed 3–12–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012307–008.

Agreement Name: Maersk/APL Slot Exchange Agreement.

Parties: American President Lines, LLC; Maersk A/S.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment removes Maersk A/S as a party and replaces it with Maersk Line, Limited.

Proposed Effective Date: 04/18/2024.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/176.

Dated: March 8, 2024.

Carl Savoy,

Federal Register Alternate Liaison Officer.

[FR Doc. 2024–05344 Filed 3–12–24; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 27, 2024.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001. Comments can also be sent electronically to *KCApplicationComments@kc.frb.org:*

1. *Ashlie D. Hadden, Kearney, Nebraska;* to join the Stull Family Control Group, a group acting in concert, to acquire voting shares of Farmers State Bancshares, Inc., and thereby indirectly acquire voting shares of Nebraska Bank, both of Dodge, Nebraska.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–05235 Filed 3–12–24; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 12, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *Billfloat, Inc., dba SmartBiz Loans, San Francisco, California;* to become a bank holding company by acquiring United Community Bancshares, Inc., and thereby indirectly acquiring Centrust Bank, N.A., both of Northbrook, Illinois.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–05323 Filed 3–12–24; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10279, CMS–10316 and CMS–10008]

Agency Information Collection Activities: Proposed Collection; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 13, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10279 Ambulatory Surgical Center Conditions for Coverage

CMS–10316 Implementation of the Medicare Prescription Drug Plan (PDP) and Medicare Advantage (MA) Plan Disenrollment Reasons Survey

CMS–10008 Transitional Pass-through payments related to Drugs, Biologicals, and Radiopharmaceuticals to determine eligibility under the Outpatient Prospective Payment System

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Reinstatement with changes to a previously approved collection; *Title of Information Collection:* Ambulatory Surgical Center Conditions for Coverage; *Use:* The purpose of this package is to request from the Office of Management and Budget (OMB) the approval to reinstate, with changes, the collection of

information. The Cfc for ASCs are regulation based on criteria described and codified at § 42 CFR 416. The Cfc establish standards designed to ensure that each ASC has properly trained staff to provide the appropriate type and level of care for the environment of ASC patients.

To determine ASC compliance with CMS standards, CMS, via the Secretary, authorizes States, through contracts, to survey ASC facilities. For Medicare purposes, certification is based on the State survey agency's recording of an ASC provider's compliance or non-compliance with the health and safety Cfc as published and codified in 42 CFR 416.40 to 485.54. The information collections aid surveyors as they assess ASC compliance or non-compliance.

The previous iteration of this information collection request had a burden of 262,946 annual hours at an annual cost of $28,144,370. For this requested reinstatement, with changes, the adjusted annual hourly burden is 97,527 hours at a cost of $11,089,427. The reasons for this change, is the previous iteration of this IC assumed the development associated with IC–1 and IC–2 occurred frequently. We have revised this as development of drafts only occur on a one-time basis. *Form Number:* CMS–10279 (OMB control number: 0938–1071); *Frequency:* Annual; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 6,257; *Total Annual Responses:* 6,257; *Total Annual Hours:* 97,527. (For policy questions regarding this collection contact Claudia Molinar at 410–786–8445.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Implementation of the Medicare Prescription Drug Plan (PDP) and Medicare Advantage (MA) Plan Disenrollment Reasons Survey; *Use:* Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) provides a requirement to collect and report performance data for Part D prescription drug plans. Specifically, the MMA under Sec. 1860D–4 (Information to Facilitate Enrollment) requires CMS to conduct consumer satisfaction surveys regarding the PDP and MA contracts pursuant to section 1860D–4(d). Plan disenrollment is generally believed to be a broad indicator of beneficiary dissatisfaction with some aspect of plan services, such as access to care, customer service, cost of the plan, services, benefits provided, or quality of care.

This data collection complements the enrollee beneficiary experience data collected through the Medicare Consumer Assessment of Healthcare Providers and Systems (Medicare CAHPS) survey by providing information on the reasons for disenrollment from a Medicare Advantage (with or without prescription drug coverage) or Prescription Drug Plan.

The Disenrollment Survey results are an important source of information used by CMS to monitor contract performance and to identify potential problems (*e.g.,* plans providing incorrect information to beneficiaries or creating access problems). CMS uses the results to monitor the quality of service that Medicare beneficiaries get from contracted plans and their providers and to understand beneficiaries' expectations relative to provided benefits and services for MA and PDPs. CMS uses information from the Disenrollment Survey to support quality improvement efforts of individual contracts. *Form Number:* CMS–10316 (OMB control number: 0938–1113); *Frequency:* Yearly; *Affected Public:* Individuals and Households; *Number of Respondents:* 36,050; *Total Annual Responses:* 36,050; *Total Annual Hours:* 6,730. (For policy questions regarding this collection contact Beth Simon at 415–744–3780.)

3. *Type of Information Collection Request:* Extension currently approved collection; *Title of Information Collection:* Transitional Pass through payments related to Drugs, Biologicals, and Radiopharmaceuticals to determine eligibility under the Outpatient Prospective Payment System; *Use:* Section 1833(t)(6)(D)(i) of the Act sets the payment rate for pass-through eligible drugs and biologicals (assuming that no pro rata reduction in pass-through payment is necessary) as the amount determined under section 1842(o) of the Act. Section 303(c) of Public Law 108–173 amended Title XVIII of the Act by adding new section 1847A. This new section establishes the use of the average sales price (ASP) methodology for payment for drugs and biologicals described in section 1842(o)(1)(C) of the Act furnished on or after January 1, 2005. Therefore, as we stated in the November 15, 2004 **Federal Register** (69 FR 65776), in CY 2005, we will pay under the OPPS for drugs, biologicals and radiopharmaceuticals with pass-through status consistent with the provisions of section 1842(o) of the Act as amended by Public Law 108–173 at a rate that is equivalent to the payment these drugs and biologicals will receive in the physician office setting, and established in accordance with the methodology described in the CY 2005 Physician Fee Schedule final rule.

Interested parties such as hospitals, pharmaceutical companies, and physicians will apply for transitional pass-through payment for drugs, biologicals, and radiopharmaceuticals used with services covered under the hospital OPPS. After we receive all requested information, we will evaluate the information to determine if the criteria for making a transitional pass-through payment are met and if an interim healthcare common procedure coding system (HCPCS) code for a new drug, biological, or radiopharmaceutical is necessary. We will advise the applicant of our decision, and update the hospital OPPS during its next scheduled quarterly update to reflect any newly approved drug, biological, or radiopharmaceutical. Based on experience gained in processing transitional pass-through and new technology applications, we have reworded some of the statements for clarity and have more clearly requested information in a format that will allow us to determine if the drug, biological, or radiopharmaceutical meets the cost significance test, as well as to estimate the associated pass-through payment amount. In addition, we have also eliminated the requirement for applicants to obtain a national Level II HCPCS code prior to seeking transitional pass-through payment eligibility, or provide us with a copy of their application for a national HCPCS code, as we had originally required in the April 7, 2000 final rule. *Form Number:* CMS–10008 (OMB control number: 0938–0802); *Frequency:* Once; *Affected Public:* Private Sector, Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 35; *Total Annual Responses:* 35; *Total Annual Hours:* 560. (For policy questions regarding this collection contact Andrew Wang at 410–786–8233.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–05291 Filed 3–12–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10454]

Agency Information Collection Activities: Proposed Collection; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 13, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10454 Disclosure of State Rating Requirements

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension; *Title of Information Collection:* Disclosure of State Rating Requirements; *Use:* The final rule ''Patient Protection and Affordable Care Act; Health Insurance Market Rules; Rate Review'' implements sections 2701, 2702, and 2703 of the Public Health Service Act (PHS Act), as added and amended by the Affordable Care Act, and sections 1302(e) and 1312(c) of the Affordable Care Act. The rule directs that states submit to CMS certain information about state rating and risk pooling requirements for their individual, small group, and large group markets, as applicable. Specifically, states will inform CMS of age rating ratios that are narrower than 3:1 for adults; tobacco use rating ratios that are narrower than 1.5:1; a state-established uniform age curve; geographic rating areas; whether premiums in the small and large group market are required to be based on average enrollee amounts (also known as composite premiums); and, in states that do not permit any rating variation based on age or tobacco use, uniform family tier structures and corresponding multipliers. In addition, states that elect to merge their individual and small group market risk pools into a combined pool will notify CMS of such election. This information will allow CMS to determine whether state-specific rules apply or Federal default rules apply. It will also support the accuracy of the federal risk adjustment methodology. *Form Number:* CMS–10454 (OMB control number 0938–1258); *Frequency:* Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 3; *Total Annual Responses:* 3; *Total Annual Hours:* 7.3. For policy questions regarding this collection contact Russell Tipps at 301–869–3502.

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–05332 Filed 3–12–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; National Survey of Older Americans Act Participants [OMB 0985–0023]

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under the Paperwork Reduction Act of 1995. This 30-day notice collects comments on the information collection requirements related to the proposed revision for the information collection requirements related to the National Survey of Older Americans Act Participants.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by April 12, 2024.

ADDRESSES: Submit written comments and recommendations for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find the information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. By mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Kristen Robinson, Administration for Community Living, Washington, DC 20201, by email at *Kristen.Robinson@acl.hhs.gov,* or by telephone at 202–795–7428.

SUPPLEMENTARY INFORMATION: In compliance with the Paperwork Reduction Act (44 U.S.C. 3506), the Administration for Community Living (ACL) has submitted the following proposed collection of information to OMB for review and clearance. The National Survey of Older Americans Act (OAA Section 202(f),) Participants information collection includes consumer assessment surveys for the Congregate and Home-delivered meal nutrition programs; Case Management, Homemaker, and Transportation Services; and the National Family Caregiver Support Program. This survey builds on earlier national pilot studies and surveys, as well as performance measurement tools developed by ACL grantees in the Performance Outcomes Measures Project (POMP). Changes identified as a result of these initiatives were incorporated into the last data collection package that was approved by OMB and are included in this proposed extension of a currently approved collection.

This information will be used by ACL to track performance outcome measures; support budget requests; comply with the GPRA Modernization Act of 2010 (Pub. L. 111–352) reporting requirements; provide national benchmark information; and inform program development and management initiatives.

In addition to the proposed extension of a currently approved collection of information, ACL is requesting approval for a one-time module on 'Preferences and Needs Related to Community Living' to be added to the currently approved NSOAAP data collection effort. The module will be added to the 2024 collection instrument.

Most older adults want to remain living in their homes and communities as they age. According to a 2022 National Poll on Healthy Aging conducted by the University of Michigan, 88 percent of older adults reported it was important to them to be able to stay living safely in their homes for as long as possible. Unexpected medical events and declines in health, however, can sometimes make that difficult. The purpose of the one-time module on 'Preferences and Needs Related to Community Living' is to better understand how prepared OAA recipients are to remain living in their homes as they age, so that the Aging Network can better tailor their programs and services to meet their clients' needs.

The results of this information collection will be used by ACL to:

- Provide refined national benchmarks for use by State agencies and area agencies on aging (AAAs).
- Provide secondary data for analysis of various Title III program evaluations.
- Provide performance information for key demographic subgroups which will enable ACL to identify variations in performance and examine the need for additional targeted technical assistance.
- Provide secondary data for analysis of 'Preferences and Needs Related to Community Living' on access to and use of OAA programs and services among older adults that will be shared with states and AAAs to help them better structure their programs and services to help older adults remain safely in their homes and communities as long as possible.

The data will be used by the Senior official performing the duties of the Administrator and the Assistant Secretary for Aging for the Administration for Community Living, in testimony and presentations; it will be incorporated into the agency's Annual Report; and it will be used by program staff to identify areas that may need attention at the national level. Copies of the survey instruments and data from previous National Surveys of OAA Participants can be found on the Aging, Independence, and Disability (AGID) Program Data Portal at *https://agid.acl.gov/.* This IC collects demographic data from grantees receiving programs and services funded by HHS. ACL will adhere to best practices for collection of all demographic information when this information is collected for the programs listed in accordance with OMB guidance.

This includes, but is not limited to, guidance specific to the collection of sexual orientation and gender identity (SOGI) items that align with Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, Executive Order 14075 on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals, and Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity and Sexual Orientation. Understanding these disparities can and should lead to improved service delivery for ACL's programs and populations served.

Comments in Response to the 60-Day Federal Register Notice

A 60-day FRN published in the FR on August 2, 2023, at 88 FR 50869. One public comment was received.

Data collection form	Comment	ACL response
NSOAAP Demographic Characteristics.	The undersigned write to provide support for the Administration's efforts to retain a question assessing sexual orientation and add in a two-step question assessing gender identity amongst respondents to the NSOAAP. Questions measuring SOGI among respondents to the NSOAAP will serve a practical utility for the Administration as it will increase the Administration's ability to assess the needs of LGBTQ older Americans.	ACL concurs and plans to maintain the sexual orientation question and two-step gender identity question for the foreseeable future.

Estimated Program Burden: ACL estimates the annual burden associated with this collection of information as follows:

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
Area Agency on Aging: Respondent selection process	300	1	4.0	1,200
Service recipients (*i.e.,* Congregate and Home-Delivered Meal nutrition programs, Case Management, Homemaker, Transportation services) + Rotating Module	4,000	1	0.75	3,000
National Family Caregiver Support Program clients + Rotating Module	2,000	1	0.75	1,500
Total	6,300	1	*0.90	5,700

*Weighted mean.

Dated: March 7, 2024.

Alison Barkoff,

Principal Deputy Administrator for the Administration for Community Living, performing the delegable duties of the Administrator and the Assistant Secretary for Aging.

[FR Doc. 2024–05310 Filed 3–12–24; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–0668]

Agency Information Collection Activities; Proposed Collection; Comment Request; Proposed Small Dispensers Assessment Under the Drug Supply Chain Security Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Proposed Small Dispensers Assessment under the Drug Supply Chain Security Act (DSCSA).

DATES: Either electronic or written comments on the collection of information must be submitted by May 13, 2024.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 13, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2024–N–0668 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Proposed Small Dispensers Assessment under the Drug Supply Chain Security Act (DSCSA).'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access

the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Proposed Small Dispensers Assessment Under the Drug Supply Chain Security Act

OMB Control Number 0910–NEW

I. Background

On November 27, 2013, the DSCSA (Title II of Pub. L. 113–54) was signed into law. The DSCSA outlines steps to achieve interoperable, electronic tracing of products at the package level [1] to identify and trace certain prescription drugs as they are distributed in the United States. Section 202 of the DSCSA added the new sections 581 and 582 to the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360eee and 360eee–1). Under section 582(g)(3), FDA is required to enter into a contract with a private, independent consulting firm with expertise to conduct a technology and software assessment that looks at the feasibility of dispensers with 25 or fewer full-time employees (FTEs) conducting interoperable, electronic tracing of products at the package level.

As described in section 582(g)(3)(C), issues to be addressed in the assessment questions are related to the accessibility of the necessary software and hardware to such dispensers; whether the necessary software and hardware is prohibitively expensive to obtain, install, and maintain for such dispensers; and if the necessary hardware and software can be integrated into business practices. Respondents will submit information by answering the assessment questions. Under enhanced drug distribution security requirements in section 582(g)(1), dispensers and other trading partners will be required to, among other requirements, exchange transaction information and transaction statements in a secure, interoperable, electronic manner for each package; implement systems and processes for package level verification, including the standardized numerical identifier; and implement systems and processes to facilitate gathering the information necessary to produce the transaction information and statement for each transaction going back to the manufacturer if FDA or a trading partner requests an investigation in the event of a recall or a suspect or illegitimate product. These enhanced drug distribution security requirements are also referred to as ''enhanced product tracing or enhanced verification.''

[1] As defined by section 581(11) of the FD&C Act, generally, the term ''package'' means the smallest individual saleable unit or smallest container of product for distribution by a manufacturer or repackager that is intended by the manufacturer for ultimate sale to the dispenser of such product.

II. Proposed DSCSA Small Dispensers Assessment

A. Eligibility Requirements

Assessment participants will include self-identified individuals representing dispensers with a total of 25 or fewer FTEs (small dispenser) and individuals representing small dispensers' third-party entities (*e.g.,* solution providers, wholesale distributors, consultants).

B. Potential Issues To Examine and Evaluation Methods

The proposed DSCSA Small Dispensers Assessment will look at the feasibility of dispensers with a total of 25 or fewer FTEs of conducting interoperable, electronic tracing of products at the package level. As part of the qualitative data analysis, respondents will submit information by answering specific questions for the assessment. Evaluation methods and analyses are expected to include qualitative analyses (for example, content analysis for responses), and quantitative analyses using descriptive statistics. In cases where quantitative data are collected, descriptive statistics—including percentages and tabulations—will be calculated and presented, along with demographic descriptions of respondents. For example, quantitative analysis could include percentages or tabulations of small dispensers with access to the necessary software and hardware to meet the requirements in section 582(g)(1) of the FD&C Act. We have developed a web page to further assist industry regarding the proposed DSCSA Small Dispensers Assessment, available at *https://www.fda.gov/drugs/drug-supply-chain-security-act-dscsa/drug-supply-chain-security-act-dscsa-assessment-small-dispensers.*

C. Proposed Instructions for Enrollment for the Proposed DSCSA Small Dispensers Assessment

After the proposed DSCSA Small Dispensers Assessment is established, volunteers interested in participating will enroll by submitting participant information using a link to be provided on the same web page mentioned above, *https://www.fda.gov/drugs/drug-supply-chain-security-act-dscsa/drug-supply-chain-security-act-dscsa-assessment-small-dispensers.* Only one point-of-contact per company should be provided for the enrollment.

D. Proposed Content of the Enrollment for the Proposed DSCSA Small Dispensers Assessment

The following information should be included:

- Contact information (name, email address, phone number, mailing address)
- Confirm you are a dispenser that has 25 or fewer FTEs or you are an individual representing a small dispensers' third-party entity (*e.g.,* solution providers, wholesale distributors, consultants)
- Commitment to answer the questions contained in the assessment within 45 days of receiving
- Applicable state license number

E. Participation

Assessment participants will include those who have met eligibility requirements and completed enrollment. The assessment is expected to be completed within the proposed duration of 45 days of receiving, and participants will be expected to provide responses to FDA via the designated FDA online tool/platform.

F. Proposed Recordkeeping

Any records generated by a participant in the assessment should be maintained as an entity would in a normal course of business. FDA recommends that the responses that participants create and submit to FDA for the assessment be maintained for at least 1 year after FDA publishes its final report of the assessment.

G. Initiation of FDA's Proposed DSCSA Small Dispensers Assessment

FDA does not intend to begin the proposed DSCSA Small Dispensers Assessment or accept enrollment to participate in the assessment until OMB has approved the proposed collection of information described in this notice.

FDA estimates the burden of this one-time collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

DSCSA small dispensers assessment	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Enrollment	200	1	200	0.5	100
Assessment Questions Response	100	1	100	2	200
Total	300				300

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Submitting an enrollment and reporting activities. FDA estimates that no more than 200 respondents (*i.e.,* the submitter or point of contact) will submit an enrollment, and that it will take, based on the various levels of resources by company, an average of 0.5 hours to complete an enrollment to FDA. FDA estimates that it will receive no more than 100 participants for the assessment. The estimated total time for respondents to submit an enrollment to participate in the assessment is 100 hours. FDA estimates that it will take, based on the various levels of resources by company, an average of 2 hours to compile and submit a response to the assessment. The estimated total number of hours for submitting a response to the assessment would be 200 hours. The total hours for the estimated reporting burden are 300 hours (table 1).

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

DSCSA small dispensers assessment	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Records related to enrollment	200	1	200	0.5	100
Records related to Assessment Questions Response	100	1	100	0.5	50
Total	300				150

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Recordkeeping activities. Recordkeeping activities include storing and maintaining records related to submitting to enroll to participate in the assessment and compiling reports. Respondents can use current record retention capabilities for electronic or paper storage to achieve these activities. FDA estimates that no more than 200 respondents will have recordkeeping activities related to assessment participation. FDA believes that it will take 0.5 hour to ensure that the documents related to enrollment to participate in the assessment are retained properly for a minimum of 1 year after the assessment is completed (as recommended by FDA). The resulting total to maintain the records related to submitting a request is 100 hours annually.

For retaining records related to the response to the assessment properly for a minimum of 1 year after the assessment is completed (as recommended by FDA), FDA estimates that it will take approximately 0.5 hour. As noted above, FDA estimates that the 100 respondents will submit one response for the assessment. The estimated total for maintaining records related to the assessment is 50 hours respectively. The total recordkeeping burden is estimated to be 150 hours (table 2).

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

DSCSA small dispensers assessment	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Coordination with third-party entities related to enrollment	75	2	150	0.5	75
Coordination with third-party entities related to assessment questions response	50	2	100	2	200
Total	125				275

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Third-party disclosure activities. For those assessment participants that involve third-party activities, FDA is taking into consideration the time that participants will spend coordinating with third-party entities (*e.g.,* solution providers, wholesale distributors, consultants). For the enrollment, FDA estimates that 75 respondents will work with their respective partnering entities and the average number of partnering entities will be 2. FDA estimates that each respondent will spend 2 hours coordinating with each third-party entity. Thus, for 150 respondents with an average of 2 partnering entities, the estimated total burden for coordinating with partnering entities related to the enrollment is 75 hours. FDA estimates that for each of the 100 lists of assessment responses, it will take approximately 2 hours to coordinate with each partner, resulting in a total of 200 hours. The total estimation for third-party disclosure burden is 275 hours (table 3).

Dated: March 8, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–05294 Filed 3–12–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–5616]

Annual Reportable Labeling Changes for New Drug Applications and Abbreviated New Drug Applications for Nonprescription Drug Products; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a draft guidance for industry entitled ''Annual Reportable Labeling Changes for NDAs and ANDAs for Nonprescription Drug Products.'' This draft guidance provides recommendations to applicants of approved new drug applications (NDAs) and abbreviated new drug applications (ANDAs) for nonprescription drug products on documenting minor labeling changes in the next annual report and provides examples of minor labeling changes that may be submitted in an annual report. The recommendations in this draft guidance address the types of minor labeling changes that may be appropriate to submit in an annual report to ensure that consumers have timely access to the most current labeling for a nonprescription drug product to ensure the product's safe and effective use. We anticipate that these recommendations may assist industry in understanding the circumstances in which it would be appropriate to document minor changes in the applicant's next annual report rather than submitting a prior approval supplement or ''changes being effected'' supplement, thereby reducing burden on industry and FDA.

DATES: Submit either electronic or written comments on the draft guidance by May 13, 2024 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–D–5616 for ''Annual Reportable Labeling Changes for NDAs and ANDAs for Nonprescription Drug Products.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including

the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4139, Silver Spring, MD 20993–0002, 240–402–7945.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Annual Reportable Labeling Changes for NDAs and ANDAs for Nonprescription Drug Products.'' This draft guidance provides recommendations to applicants of approved NDAs and ANDAs for nonprescription drug products on documenting minor labeling changes in the next annual report. The draft guidance also provides examples of minor labeling changes that may be submitted in an annual report.

FDA evaluates whether the data and information submitted as part of an NDA or ANDA for a nonprescription drug product demonstrate that the drug product is safe and effective for nonprescription use under the conditions prescribed, recommended, or suggested in its proposed labeling.[1] A nonprescription drug must be labeled with adequate directions for use.[2] Adequate directions for use are the directions under which the consumer can use the drug safely and for the purposes for which it is intended.[3] Therefore, labeling for a nonprescription drug product enables consumers to appropriately self-select and use the nonprescription drug product safely and effectively without the supervision of a healthcare practitioner.

After FDA approves an NDA or ANDA, an applicant may make, or in certain cases propose to FDA, changes to the approved application. Section 506A of the FD&C Act (21 U.S.C. 356a) and FDA regulations under §§ 314.70, 314.71, and 314.97 (21 CFR 314.70, 314.71, and 314.97) provide certain requirements for making and reporting to FDA changes to an approved NDA or ANDA, including an NDA or ANDA for a nonprescription drug product. Changes to an approved NDA or ANDA, including labeling changes, are categorized into one of three reporting categories: major, moderate, or minor.[4]

''Minor changes'' include certain changes that have a minimal potential to have an adverse effect on the identity, strength, quality, purity, or potency of a drug product as these factors may relate to the safety or effectiveness of the drug product.[5] Minor changes with an approved NDA or ANDA may be implemented immediately by the applicant without the applicant submitting a supplement to FDA. The applicant must document minor changes, including minor labeling changes, in its next annual report in accordance with § 314.81(b)(2) (21 CFR 314.81(b)(2)) (*i.e.,* the annual report covering the period when the change or changes occurred) submitted to FDA.[6] The annual report must include a summary of any changes in labeling, including minor changes, that have been made since the last report listed by date in the order in which they were implemented, or if no changes have been made, a statement of that fact.[7]

Determining the reporting category for a change to nonprescription drug labeling may present certain considerations that differ from changes to prescription drug labeling. Changes to the approved labeling for a nonprescription drug product may affect consumers' ability to appropriately self-select and use the nonprescription drug product safely and effectively without the supervision of a healthcare practitioner. Thus, changes to nonprescription labeling may not be considered minor even though similar changes may be considered minor when applied to the labeling of a prescription drug product. For example, certain changes in the layout of the package or container label for a prescription drug product that are consistent with FDA regulations (*e.g.,* 21 CFR part 201), without a change in the content of the labeling, might not affect the safe and effective use of the prescription drug product because it is used under the supervision of a healthcare practitioner. In contrast, changes in the layout of the package or container label and other changes to nonprescription drug labeling could affect consumers' ability to comprehend the nonprescription drug labeling and to appropriately self-select and use the nonprescription drug product such that the change would not be a minor change under § 314.70(d).

FDA generally does not expect that editorial and similar minor labeling changes to nonprescription drug labeling would affect consumers' ability to appropriately self-select and use the nonprescription drug product without the supervision of a healthcare practitioner. Based on FDA's experience approving nonprescription drug labeling, FDA is providing specific examples of such editorial or similar minor labeling changes for nonprescription drug products that may be appropriate to include in an annual report.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA

[1] See sections 505(d) and 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(d) and 353(b)(1)).

[2] See section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)).

[3] See 21 CFR 201.5.

[4] See §§ 314.70 and 314.97; see also the guidance for industry entitled ''Changes to an Approved NDA or ANDA,'' available at *https://www.fda.gov/media/71846/download.*

[5] See § 314.70(d).

[6] See §§ 314.70(d) and 314.81(b)(2). Additionally, a representative sample of, among other things, the package labels must be submitted in the annual report (§ 314.81(b)(2)(iii)(*a*)).

[7] See § 314.81(b)(2)(iii)(*c*).

on ''Annual Reportable Labeling Changes for NDAs and ANDAs for Nonprescription Drug Products.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 314 relating to the submissions of NDAs and ANDAs, supplemental applications, and annual reports have been approved under OMB control number 0910–0001. The collections of information in 21 CFR part 201 for the format and content requirements for nonprescription drug product labeling have been approved under OMB control number 0910–0340. The collections of information in 21 CFR part 211 have been approved under OMB control number 0910–0139.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs*, *https://www.fda.gov/regulatory-information/search-fda-guidance-documents*, or *https://www.regulations.gov*.

Dated: March 8, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–05293 Filed 3–12–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–P–2874]

Determination That Romidepsin Injection, 10 Milligrams/2 Milliliters (5 Milligrams/Milliliter) and 27.5 Milligrams/5.5 Milliliters (5 Milligrams/Milliliter), Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that Romidepsin Injection, 10 milligrams (mg)/2 milliliters (mL) (5 mg/mL) and 27.5 mg/5.5 mL (5 mg/mL), were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for romidepsin solution, 10 mg/2 mL (5 mg/mL) and 27.5 mg/5.5 mL (5 mg/mL), that refer to these drugs as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Veniqua Stewart, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6219, Silver Spring, MD 20993–0002, 301–796–3267, *Veniqua.Stewart@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

Romidepsin Injection, 10 mg/2 mL (5 mg/mL) and 27.5 mg/5.5 mL (5 mg/mL), are the subject of NDA 208574, held by Teva Pharmaceuticals USA, Inc. (Teva), and initially approved on March 13, 2020. Romidepsin Injection is currently indicated only for the treatment of cutaneous T-cell lymphoma (CTCL) in adult patients who have received at least one prior systemic therapy.

Romidepsin Injection, 10 mg/2 mL (5 mg/mL) and 27.5 mg/5.5 mL (5 mg/mL), are currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

E. Rust Consulting, LLC submitted a citizen petition dated July 11, 2023 (Docket No. FDA–2023–P–2874), under 21 CFR 10.30, requesting that the Agency determine whether Romidepsin Injection, 10 mg/2 mL (5 mg/mL) and 27.5 mg/5.5 mL (5 mg/mL), were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that Romidepsin Injection, 10 mg/2 mL (5 mg/mL) and 27.5 mg/5.5 mL (5 mg/mL), were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that Romidepsin Injection, 10 mg/2 mL (5 mg/mL) and 27.5 mg/5.5 mL (5 mg/mL), were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of Romidepsin Injection, 10 mg/2 mL (5 mg/mL) and 27.5 mg/5.5 mL (5 mg/mL), from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events.

We note that Romidepsin Injection, 10 mg/2 mL (5 mg/mL) and 27.5 mg/5.5 mL (5 mg/mL), previously were approved with an indication for treatment of peripheral T-cell lymphoma (PTCL) in adult patients who have received at least one prior therapy, under the Agency's accelerated approval regulations, 21 CFR part 314, subpart H. The accelerated approval of Teva's Romidepsin Injection for PTCL included a required postmarketing clinical trial intended to verify the clinical benefit of romidepsin (the Ro-CHOP study) for PTCL. Teva's Romidepsin Injection product was approved under the 505(b)(2) approval pathway, and the listed drug relied upon is Celgene Corp.'s (Celgene) NDA 022393, ISTODAX (romidepsin) for injection, 10 mg/vial. Celgene was acquired by Bristol-Meyers Squib Co. which is

currently listed as the NDA holder in the Orange Book.

On August 6, 2020, Celgene submitted high level results from the Ro-CHOP study to FDA, which indicated the study failed to meet its primary endpoint of progression-free survival. On May 14, 2021, Celgene informed FDA that after careful consideration, Celgene decided to voluntarily withdraw the PTCL indication from ISTODAX (romidepsin) for injection, 10 mg/vial. On June 17, 2021, Celgene submitted a supplemental NDA proposing to remove the PTCL indication. On July 14, 2021, Celgene submitted a letter asking FDA to withdraw approval of the PTCL indication pursuant to § 314.150(d) (21 CFR 314.150(d)) and waiving its opportunity for a hearing.

On August 27, 2021, Teva submitted a labeling supplement proposing to remove the PTCL indication. On September 12, 2021, the Agency requested Teva voluntarily request withdrawal of the PTCL indication pursuant to § 314.150(d) and waive its opportunity for a hearing. On September 14, 2021, Teva amended its supplement by submitting a cover letter requesting withdrawal of approval of the PTCL indication pursuant to § 314.150(d) and waiving its opportunity for a hearing. On December 8, 2021, FDA approved the supplemental NDA to revise the labeling to remove the PTCL indication. In the **Federal Register** of May 9, 2022 (87 FR 27644), FDA announced that it was withdrawing approval of the PTCL indications for ISTODAX (romidepsin) for injection, 10 mg/vial, and Romidepsin Injection. Therefore, Romidepsin Injection is only indicated for the treatment of CTCL in adult patients who have received at least one prior systemic therapy.

The Agency will continue to list Teva's Romidepsin Injection, 10 mg/2 mL (5 mg/mL) and 27.5 mg/5.5 mL (5 mg/mL), in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will accept and, where appropriate, approve ANDAs that refer to these drug products, but does not intend to do so if they propose to include the PTCL indication (see, *e.g.,* section 505(j)(2)(A)(v) and (j)(4)(G) of the FD&C Act and 21 CFR 314.94(a)(8)(iv) and 314.127(a)(7)). If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: March 8, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–05298 Filed 3–12–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–D–1158]

Select Updates for the Premarket Cybersecurity Guidance: Section 524B of the Federal Food, Drug, and Cosmetic Act; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Select Updates for the Premarket Cybersecurity Guidance: Section 524B of the FD&C Act.'' This draft guidance proposes select updates to the final guidance ''Cybersecurity in Medical Devices: Quality System Considerations and Content of Premarket Submissions.'' This draft guidance, when finalized, will identify the information FDA generally considers to be necessary for cyber devices to support obligations under the new amendments to the Federal Food, Drug, and Cosmetic Act (FD&C Act) for ensuring cybersecurity of devices. This draft guidance is not final nor is it for implementation at this time.

DATES: Submit either electronic or written comments on the draft guidance by May 13, 2024 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–D–1158 for ''Select Updates for the Premarket Cybersecurity Guidance: Section 524B of the FD&C Act.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you

must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Select Updates for the Premarket Cybersecurity Guidance: Section 524B of the FD&C Act'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Suzanne Schwartz, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5410, Silver Spring, MD 20993–0002, 301–796–6937; or James Myers, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Section 3305 of the Food and Drug Omnibus Reform Act of 2022 (FDORA), enacted on December 29, 2022, added section 524B ''Ensuring Cybersecurity of Medical Devices'' to the FD&C Act. Under section 524B(a) of the FD&C Act (21 U.S.C. 360n-2(a)), a person who submits a 510(k), premarket approval application (PMA), product development protocol (PDP), De Novo, or humanitarian device exemption (HDE) for a device that meets the definition of a cyber device, as defined under section 524B(c) of the FD&C Act, is required to submit information to ensure that cyber devices meet the cybersecurity requirements under section 524B(b) of the FD&C Act.

FDA is proposing to selectively update the final guidance ''Cybersecurity in Medical Devices: Quality System Considerations and Content of Premarket Submissions.'' This draft guidance, when finalized, will identify the information FDA generally considers to be necessary to support obligations under section 524B of the FD&C Act. Specifically, this draft guidance discusses who is required to comply with section 524B, the devices subject to section 524B, and the documentation recommendations for applicable premarket submissions. Additionally, FDA provides recommendations regarding premarket submissions for changes to cyber devices that had been previously authorized by FDA through 510(k), De Novo, HDE, PDP, and PMA submission pathways, and that require premarket submission. This draft guidance also discusses FDA's review of whether there is a reasonable assurance that the device and related systems are cybersecure for marketing authorizations submitted for cyber devices.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Cybersecurity in Medical Devices: Quality System Considerations and Content of Premarket Submissions.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents*, or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics.* Persons unable to download an electronic copy of ''Select Updates for the Premarket Cybersecurity Guidance: Section 524B of the FD&C Act'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00001825 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

21 CFR part; guidance; or FDA form	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Use Devices; Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
860, subpart D	De Novo classification process	0910–0844
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation	0910–0073

Dated: March 8, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–05295 Filed 3–12–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2019–E–5660 and FDA–2019–E–5661]

Determination of Regulatory Review Period for Purposes of Patent Extension; DAURISMO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for DAURISMO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of patents which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by May 13, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 9, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 13, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2019–E–5660 and FDA–2019–E–5661 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; DAURISMO.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biological product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts

with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product DAURISMO (glasdegib). DAURISMO is indicated, in combination with low-dose cytarabine, for the treatment of newly diagnosed acute myeloid leukemia in adult patients who are 75 years old and older, or who have comorbidities that preclude use of intensive induction chemotherapy. Subsequent to this approval, the USPTO received a patent term restoration application for DAURISMO (U.S. Patent Nos. 8,148,401; 8,431,597) from Pfizer, Inc. and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated December 26, 2019, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of DAURISMO represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for DAURISMO is 3,388 days. Of this time, 3,179 days occurred during the testing phase of the regulatory review period, while 209 days occurred during the approval phase. These periods of time were derived from the following dates:

1. The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective: August 14, 2009. The applicant claims August 15, 2009, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was August 14, 2009, which was the first date after receipt of the IND that the investigational studies were allowed to proceed.

2. The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act: April 27, 2018. FDA has verified the applicant's claim that the new drug application (NDA) for DAURISMO (NDA 210656) was initially submitted on April 27, 2018.

3. The date the application was approved: November 21, 2018. FDA has verified the applicant's claim that NDA 210656 was approved on November 21, 2018.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 661 days or 1,121 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: March 8, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–05305 Filed 3–12–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Infant and Maternal Mortality

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Infant and Maternal Mortality (ACIMM or Committee) has scheduled a public meeting. Information about ACIMM and the agenda for this meeting can be found on the ACIMM website at *https://www.hrsa.gov/advisory-committees/infant-mortality/index.html.*

DATES:

- April 2, 2024, 9 a.m. to 4 p.m. Central Time (CT);
- April 3, 2024, 12 p.m. to 6 p.m. CT; and
- April 4, 2024, 9 a.m. to 12 p.m. CT.

ADDRESSES: This meeting will be held in-person at Delmar Divine, 5501 Delmar Boulevard, St. Louis, Missouri 63112 and virtually via webinar. The webinar link and log-in information will be available at the ACIMM website before the meeting: *https://www.hrsa.gov/advisory-committees/infant-mortality/index.html.*

FOR FURTHER INFORMATION CONTACT: Vanessa Lee, MPH, Designated Federal Official, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857; 301–443–0543; or *SACIM@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACIMM is authorized by section 222 of the Public Health Service Act (42 U.S.C. 217a), as amended. The Committee is governed by provisions of the Federal Advisory Committee Act (5 U.S.C. Chapter 10), as amended.

ACIMM advises the Secretary of Health and Human Services (Secretary) on department activities, partnerships, policies, and programs directed at reducing infant mortality, maternal mortality and severe maternal morbidity, and improving the health status of infants and women before, during, and after pregnancy. The Committee provides advice on how to coordinate federal, state, local, tribal, and territorial governmental efforts designed to improve infant mortality, related adverse birth outcomes, maternal health, as well as influence

similar efforts in the private and voluntary sectors. The Committee provides guidance and recommendations on the policies, programs, and resources required to address the disparities and inequities in infant mortality, related adverse birth outcomes and maternal health outcomes, including maternal mortality and severe maternal morbidity. With its focus on underlying causes of the disparities and inequities seen in birth outcomes for women and infants, ACIMM advises the Secretary on the health, social, economic, and environmental factors contributing to the inequities and proposes structural, policy, and/or systems level changes.

The agenda for the April 2–4, 2024, meeting is being finalized and may include the following topics: updates on the federal Healthy Start program; Committee discussions on the workgroup topics of rural health care access, social drivers of health, and women's health before/between pregnancies; federal updates; and remarks from individuals with lived experience and community members, including those representing community-based organizations, on how to achieve optimal maternal health and overall birth outcomes for underserved populations, including Black/African-American families. Agenda items are subject to change as priorities dictate. Refer to the ACIMM website listed above for any updated information concerning the meeting.

Members of the public will have the opportunity to provide written or oral comments. Requests to submit a written statement or make oral comments to ACIMM should be sent to Vanessa Lee, using the email address above at least 3 business days prior to the meeting. Public participants may submit written statements in advance of the scheduled meeting by emailing *SACIM@hrsa.gov.* Oral comments will be honored in the order they are requested and may be limited as time allows.

Individuals who plan to attend and need special assistance or a reasonable accommodation should notify Vanessa Lee at the contact information listed above at least 10 business days prior to the meeting.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–05300 Filed 3–12–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0183]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0109

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0109, Drawbridge Operation Regulations; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before May 13, 2024.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2024–0183] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2024–0183], and must be received by May 13, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Drawbridge Operation Regulations.

OMB Control Number: 1625–0109.

Summary: The Bridge Program receives approximately 412 requests from bridge owners per year to change the operating schedule of various drawbridges across the navigable waters of the United States. The information needed for the change to the operating schedule can only be obtained from the bridge owner and is generally provided to the Coast Guard in either written or electronic format.

Need: 33 U.S.C. 499 authorizes the Coast Guard to change the operating schedules drawbridges that cross over navigable waters of the United States.

Forms: None.

Respondents: The public and private owners of bridges over navigable waters of the United States.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden is remains 1,672 hours a year.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended)

Dated: March 8, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–05337 Filed 3–12–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0185]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0025

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0025, Carriage of Bulk Solids Requiring Special Handling; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before May 13, 2024.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2024–0185] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2024–0185], and must be received by May 13, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Carriage of Bulk Solids Requiring Special Handling—46 CFR part 148.

OMB Control Number: 1625–0025.

Summary: As specified in 46 CFR part 148, the petition for a Special Permit allows the Coast Guard to determine the manner of safe carriage for unlisted materials. The information required by Dangerous Cargo Manifests and Shipping Papers permit vessel crews and emergency personnel to properly and safely respond to accidents involving hazardous substances. See 46 CFR 148 subpart B and §§ 148.60 and 148.70.

Need: The Coast Guard administers and enforces statutes and rules for the safe transport and stowage of hazardous materials, including bulk solids.

Forms: None.

Respondents: Owners and operators of vessels that carry certain bulk solids.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 910 hours to 760 hours a year; due to a decrease in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: March 8, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–05336 Filed 3–12–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0184]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0007

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0007, Characteristics of Liquid Chemicals Proposed for Bulk Water Movement; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before May 13, 2024.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2024–0184] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is Available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2024–0184], and must be received by May 13, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Characteristics of Liquid Chemicals Proposed for Bulk Water Movement.

OMB Control Number: 1625–0007.

Summary: Chemical manufacturers submit chemical data to the Coast Guard. The Coast Guard evaluates the information for hazardous properties of the chemical to be shipped via tank vessel. A determination is made as to the kind and degree of precaution which must be taken to protect the vessel and its contents.

Need: 46 CFR parts 30 to 40, 151, 153, and 154 govern the transportation of hazardous materials. The chemical industry constantly produces new materials that must be moved by water. Each of these new materials has unique characteristics that require special attention to their mode of shipment.

Forms: None.

Respondents: Manufacturers of chemicals.

Frequency: On occasion.

Hour Burden Estimate: The estimated annual burden has increased from 600 hours to 2,190 hours a year, due to an increase in the estimate annual number of responses.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended)

Dated: March 8, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–05340 Filed 3–12–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/A0A501010.999900]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact Between the Shakopee Mdewakanton Sioux Community of Minnesota and the State of Minnesota for Blackjack

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the approval of the Addendum to Tribal-State Compact for Control of Class III Blackjack on the Shakopee Mdewakanton Sioux Community Reservation in Minnesota for Class III Card Games.

DATES: The compact takes effect on March 13, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian

Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, *IndianGaming@bia.gov;* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendment authorizes class III card games in addition to blackjack, adds definitions, regulatory standards for class III card games, background investigations, and provisions for enforcement and dispute resolution. The Amendment is approved.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–05276 Filed 3–12–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_UT_FRN_MO4500172883]

Notice of Availability of the Draft Resource Management Plan and Environmental Impact Statement for the Bears Ears National Monument in Utah

AGENCY: Bureau of Land Management, Interior; Forest Service, Agriculture (USDA).

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) and U.S. Department of Agriculture, Forest Service (USDA Forest Service), collectively ''the Agencies,'' have prepared a Draft Resource Management Plan (RMP) and Draft Environmental Impact Statement (EIS) for the Bears Ears National Monument (BENM or Monument), and by this notice are providing information announcing the opening of the comment period on the Draft RMP/EIS and the comment period on proposed areas of critical environmental concern (ACECs) on lands managed by the BLM and proposed recreational shooting closures. The BLM is leading the NEPA process in partnership with the USDA Forest Service, which will sign a decision for the USDA Forest Service-managed lands based on the analysis in the EIS. The Agencies have and will continue to meaningfully engage the Bears Ears Commission in the development of the RMP and EIS, as required by Proclamation 10285.

DATES: This notice announces the opening of a 90-day comment period for the Draft RMP/EIS beginning with the date following the Environmental Protection Agency's (EPA) publication of its Notice of Availability (NOA) of the Draft RMP/EIS in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

To afford the Agencies the opportunity to consider comments in the Proposed RMP/Final EIS, please ensure the Agencies receive your comments prior to the close of the 90-day public comment period or 15 days after the last public meeting, whichever is later.

In addition, this notice announces the opening of a 90-day comment period for proposed recreational shooting closures and a 90-day comment period for proposed ACECs on lands managed by the BLM. The Agencies must receive your comments by June 11, 2024.

The Agencies will hold a total of seven public meetings. Two meetings will be held virtually, and five meetings will be conducted in-person. The specific times and locations of the public meetings will be announced at least 15 days in advance through local media, social media, newspapers, and the ePlanning website (see **ADDRESSES**).

ADDRESSES: The Draft RMP/EIS is available for review on the BLM ePlanning project website at *https://eplanning.blm.gov/eplanning-ui/project/2020347/510.*

Written comments related to the BENM Draft RMP/EIS may be submitted by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2020347/510*
- *Mail:* ATTN: Monument Planning, BLM Monticello Field Office, 365 North Main, Monticello, UT 84535

Documents pertinent to this proposal may be examined online at *https://eplanning.blm.gov/eplanning-ui/project/2020347/570* and at the BLM Monticello Field Office, 365 North Main, Monticello, Utah 84535.

FOR FURTHER INFORMATION CONTACT: Jill Stephenson, Project Manager, Bureau of Land Management Canyon Country District, 82 E Dogwood, Moab, Utah, 84532, by phone at 435–587–1529, or email at *BLM_UT_Monticello_Monuments@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Stephenson. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Utah State Director and Manti-La Sal Forest Supervisor have prepared a Draft RMP/EIS, provides information announcing the opening of the comment period on the Draft RMP/EIS, and announces the comment period on the proposed ACECs and proposed recreational shooting closures. The planning area is located in San Juan County, Utah, and encompasses approximately 1.36 million acres of Federal land.

Management of BENM is currently guided by the 2020 BENM Approved Monument Management Plans, 2008 Monticello Approved RMP, 2008 Moab Approved RMP, and 1986 Manti-La Sal National Forest Land and Resource Management Plan (LRMP), to the extent the management actions in these plans are consistent with Presidential Proclamation 10285 (October 8, 2021).

Purpose and Need for the Planning Effort

The purpose and need serve to frame the identification of issues, alternatives development, and effects analysis. Proclamation 10285 directs the Agencies to ''prepare and maintain a new management plan for the entire monument'' for the specific purposes of ''protecting and restoring the objects identified [in Proclamation 10285] and in Proclamation 9558.''

The RMP's underlying purpose (40 CFR 1502.13) is to provide a management framework—including goals, objectives, and management direction—to guide BENM management consistent with the protection of monument objects and the management direction provided in Proclamation 10285.

The purpose and need for the BENM RMP is aligned with the purpose and need to amend the plan direction and management allocation for the BENM in the Manti-La Sal National Forest LRMP. The proposed programmatic amendment would incorporate the proposed BENM RMP and boundary

area into the Manti-La Sal LRMP. The scale of the plan amendment applies to USDA Forest Service lands within the BENM boundary area. The Forest Service Planning Rule at 36 CFR 219.13(b)(2) requires responsible officials to provide notice of which substantive requirements of 36 CFR 219.8 through 219.11 are likely to be directly related to the amendment. Based on the criteria at 36 CFR 219.13(b)(5), the substantive Planning Rule provisions that are likely to be directly related to the proposed amendment of the Manti-La Sal National Forest LRMP are: 36 CFR 219.8 (b) (1), (5), and (6), regarding social and economic sustainability; 36 CFR 219.10 (a)(1), (4), (5), (7), (8), and (10), regarding integrated resource management for multiple use; and 36 CFR 219.10 (b)(1)(ii), (iii), and (vi), regarding cultural and historic resources, areas of Tribal importance, and management of designated areas.

Alternatives Including the Preferred Alternative

The Agencies have analyzed five alternatives in detail, including the no action alternative.

Alternative A, the no action alternative, represents current management from the 2020 BENM Approved Monument Management Plans—which apply to lands that remained in BENM under Proclamation 9681—and to the 2008 Monticello Approved RMP, 2008 Moab Approved RMP, and 1986 Manti-La Sal National Forest LRMP—which apply to the lands that were excluded from BENM under Proclamation 9681—to the extent that those management actions are consistent with Proclamation 10285. In some cases, decisions in the 2008 Monticello Approved RMP, 2008 Moab Approved RMP, and 1986 Manti-La Sal National Forest LRMP are inconsistent with Proclamation 10285; in those instances, Alternative A has been modified to be consistent with Proclamation 10285.

Alternative B would provide the most permissive management for discretionary actions that are compatible with the protection of BENM objects. This alternative would focus on on-site education and interpretation and allow for the development of facilities to protect BENM objects.

Alternative C would allow discretionary actions only if necessary to protect BENM objects. This alternative would focus on off-site education and interpretation and allow for limited development of facilities to protect BENM objects.

Alternative D would allow for the continuation of natural processes by limiting or discontinuing discretionary uses. This alternative would minimize human-created facilities and management and would emphasize natural conditions.

Alternative E would emphasize resource protection and maximize the consideration and use of Tribal perspectives on managing the BENM landscape. This alternative includes consideration of natural processes and seasonal cycles in the management of the BENM, and extensive collaboration with Tribal Nations to incorporate those considerations into the day-to-day management of the Monument.

The Agencies considered five additional alternatives but dismissed these alternatives from detailed analysis as explained in the Draft RMP/EIS.

The State Director and Forest Supervisor have identified Alternative E as the preferred alternative. Alternative E was found to best meet the State Director's and Forest Supervisor's planning guidance and, therefore, was selected as the preferred alternative because it provides goals, objectives, and management direction determined to be effective at protecting monument objects, balancing resource uses, and meeting the purpose and need. The preferred alternative does not constitute a commitment or decision, and there is no requirement to select the preferred alternative in the Records of Decision.

Mitigation

The Draft RMP/EIS identifies, analyzes, and considers best management practices to mitigate the reasonably foreseeable impacts to resources and monument objects. Best management practices may include measures to avoid, minimize, rectify, reduce, or eliminate reasonably foreseeable impacts over time, and may be considered at multiple scales, including the landscape scale.

ACECs

Consistent with the BLM's land use planning regulations at 43 CFR 1610.7–2(b), the BLM is announcing the opening of a 90-day comment period on the ACECs proposed for designation on BLM-managed lands. Comments may be submitted using any of the methods listed in the **ADDRESSES** section earlier.

The proposed ACECs included in preferred alternative are:

- San Juan River ACEC—approximately 1,485 acres. Designation proposed to protect scenic and cultural resources, fish and wildlife, natural systems and processes, and geologic features. Identified special management would include preserving the natural visual character of the landscape in some portions of the ACEC (Visual Resource Management (VRM) Class I) and retaining the existing visual character of the landscape in other portions of the ACEC in a manner where authorized changes do not attract the attention of the casual observer (VRM Class II); avoiding rights-of-way (ROW) designations in the San Juan Hill Recreation Management Zone; prohibiting permitted/personal use of woodland products, except for limited on-site collection of dead wood for campfires; making the area available for livestock grazing subject to certain timing and management systems; prohibiting camping if cultural, wildlife, and natural processes are negatively impacted; and designating access trails to cultural sites as necessary to protect cultural resources.
- Shay Canyon ACEC—approximately 119 acres. Designation proposed to protect cultural and paleontological resources. Identified special management would include retaining the existing visual character of the landscape in a manner where authorized changes do not attract the attention of the casual observer (VRM Class II); prohibiting permitted/personal use of woodland products; limiting livestock grazing to trailing only; prohibiting campfires, camping, and off-trail hiking; prohibiting Special Recreation Permits (SRP) for competitive events, vending, and motorized, mechanized, and equestrian use; limiting SRP group size to 35 individuals; limiting SRPs to day use only; limiting recreation use if cultural and paleontological resources are negatively impacted; and prohibiting surface disturbing activities for vegetation, watershed, or wildlife treatments/improvements.
- Lavender Mesa ACEC—approximately 649 acres. Designation proposed to protect vegetation resources. Identified special management would include retaining the existing visual character of the landscape in a manner where authorized changes do not attract the attention of the casual observer (VRM Class II); avoiding ROWs; closing the area to OHV use and restricting helicopter access; prohibiting permitted/personal use of woodland products; making the area unavailable for livestock grazing; prohibiting campfires; and protecting vegetation for science and research purposes by limiting land treatments and other improvements (including wildlife habitat improvements and watershed control structures).

• Valley of the Gods ACEC—approximately 22,716 acres. Designation proposed to protect scenic resources. Identified special management would include preserving the natural visual character of the landscape (VRM Class I) (except on 57 acres of highway access portals); excluding ROWs; prohibiting permitted/personal use of woodland products; and prohibiting campfires.

• Indian Creek ACEC—approximately 3,936 acres. Designation proposed to protect scenic resources. Identified special management would include preserving the natural visual character of the landscape (VRM Class I); avoiding ROWs; closing the area to OHV use; prohibiting permitted/personal use of woodland products, except for limited on-site collection of dead wood for campfires; and revegetating with native species where feasible.

• John's Canyon Paleontological ACEC—approximately 11,465 acres. Designation proposed to protect paleontological, cultural, and scenic resources; fish and wildlife; and threatened species. Identified special management would include retaining the existing visual character of the landscape in a manner where authorized changes do not attract the attention of the casual observer (VRM Class II); excluding ROWs; and limiting discretionary actions to those necessary to protect BENM objects.

• Aquifer Protection Area ACEC—approximately 85,856 acres. Designation proposed to protect natural systems/aquifer recharge areas, and scenic, cultural, and paleontological resources. Identified special management would include managing discretionary uses to avoid adversely impacting vegetation communities and ground-water dependent ecosystems; preserving the natural visual character of the landscape in some portions of the ACEC (VRM Class I) and retaining the existing visual character of the landscape in other portions of the ACEC in a manner where authorized changes do not attract the attention of the casual observer (VRM Class II); and requiring hydrologic studies for groundwater withdrawals.

All nominated ACECs are proposed for designation in the preferred alternative.

Dingell Act Proposed Recreational Shooting Closures

In accordance with the John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019 (Dingell Act, Pub. L. 116–9, Section 4103), the Agencies are announcing the opening of a 90-day public comment period on the proposed recreational shooting closures within the Monument. The preferred alternative would close the entire Monument—approximately 1.36 million acres—to recreational shooting to protect BENM objects, whereas the other alternatives would close portions of the Monument to recreational shooting. Comments may be submitted using any of the methods listed in the **ADDRESSES** section earlier.

Schedule for the Decision-Making Process

Following this comment period, the Agencies will provide additional opportunities for public participation consistent with the NEPA and land use planning processes, including a 30-day public protest period and a 60-day Governor's consistency review on the Proposed RMP. The Proposed RMP/Final EIS is anticipated to be available for public protest in October 2024 with an Approved RMP and Records of Decision in January 2025. In accordance with 36 CFR 219.59(a), the USDA Forest Service will waive its objections procedures and adopt the BLM's protest procedures.

The Agencies will continue to consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM Manual Section 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. The Agencies will also continue to meaningfully engage with the Bears Ears Commission, as required by Proclamation 10285.

You may submit comments on the Draft RMP/EIS in writing to the Agencies at any public meetings or to the Agencies using one of the methods listed in the **ADDRESSES** section. To be considered, comments must be received by the end of the 90-day comment period. The ePlanning website (see **ADDRESSES**) includes background information on BENM and the planning process.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 16 U.S.C. 7913, 36 CFR 219.16, 36 CFR 219.59, 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, 43 CFR 1610.7–2).

Gregory Sheehan,

State Director.

Barbara Van Alstine,

Manti-La Sal Forest Supervisor (Acting).

[FR Doc. 2024–05203 Filed 3–12–24; 8:45 am]

BILLING CODE 4331–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO923000.14400000.ET0000.223; COC–080735]

Notice of Application for Permanent Withdrawal and Transfer of Jurisdiction, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of withdrawal application.

SUMMARY: The Department of Energy, Office of Legacy Management (DOE–LM) has filed an application with the Bureau of Land Management (BLM) requesting that the Secretary of the Interior exercise authority under Title II of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) to permanently withdraw and transfer administrative jurisdiction over 70 acres of public lands at the Durita Mill Tailings Site in Colorado to DOE–LM. The public land and interests in the land would be withdrawn from operation of the general land laws, including the United States mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws, subject to valid existing rights, and would be transferred to DOE–LM for long term maintenance and monitoring under a Nuclear Regulatory Commission license as part of the Durita Mill Tailings Site. This notice announces a 30-day opportunity for the public to comment on the DOE–LM application and request a public meeting.

DATES: Comments and meeting requests must be received on or before April 12, 2024.

ADDRESSES: Comments and meeting requests should be sent to BLM Colorado State Director, BLM Colorado State Office, P.O. Box 151029, Lakewood, CO 80215.

FOR FURTHER INFORMATION CONTACT: Jennifer Jardine, Realty Specialist, BLM Colorado State Office, telephone: (970) 385–1224, email: *jjardine@blm.gov* during regular business hours 8:00 a.m.

to 4:30 p.m., Monday through Friday, except holidays. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Jardine. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: DOE–LM filed an application with the BLM that requests the Secretary of the Interior to permanently withdraw and transfer administrative jurisdiction over the following described public lands and federally owned minerals, subject to valid existing rights. DOE–LM has requested that the land and minerals be withdrawn from location and entry under the United States mining laws, from leasing under the mineral or geothermal leasing laws, and from disposal under the mineral materials laws, subject to valid existing rights. Under UMTRCA, as amended by the Uranium Mill Tailings Remedial Action Amendments Act of 1988 (42 U.S.C. 7916), the Secretary of the Interior may make such permanent withdrawals and transfers of administrative jurisdiction. The Secretary's actions under UMTRCA are explicitly exempt from the withdrawal and transfer provisions of Section 204 of the Federal Land Policy and Management Act of 1976, as amended. The following public lands are requested for permanent withdrawal and jurisdictional transfer for long term maintenance and monitoring by the DOE–LM under applicable provisions of UMTRCA:

New Mexico Principal Meridian, Colorado

T. 46 N., R. 16 W.,
sec. 34, E½NE¼NE¼SW¼, E½SE¼NE¼SW¼, E½NE¼SE¼SW¼, N½SW¼SE¼, and N½SE¼SE¼;
sec. 35, W½NW¼NW¼SW¼, W½SW¼NW¼SW¼, and W½NW¼SW¼SW¼.

The area described contains 70 acres of public lands, according to the official plat of the survey of the said land on file with the BLM.

The purpose of the requested withdrawal and transfer of administrative jurisdiction is to allow the DOE–LM to administer the lands in perpetuity as a hazardous material site under the authority of UMTRCA, 42 U.S.C. 7902 *et seq.*

For a period until April 12, 2024, all persons who wish to submit comments, suggestions, or objections in connection with the DOE–LM application may present their views in writing to the BLM Colorado State Office at the address listed in the **ADDRESSES** section above. Records related to the applications may be examined by contacting the BLM Colorado State Office at the address listed in the **ADDRESSES**; section above. The BLM is preparing an environmental assessment under the National Environmental Policy Act in connection with the requested withdrawal and jurisdictional transfer. On March 22, 2022, the BLM posted a project description for DOI–BLM–CO–S050–2022–0013–EA on its e-Planning site at *eplanning.blm.gov/eplanning-ui/project/2018643/510.*

Comments will be available for public review at the BLM Colorado State Office during regular business hours, 8:00 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 42 U.S.C. 7916)

Douglas J. Vilsack,

BLM Colorado State Director.

[FR Doc. 2024–05341 Filed 3–12–24; 8:45 am]

BILLING CODE 6450–01–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–24–012]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: March 21, 2024 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. No. 731–TA–1203 (Review) (Xanthan Gum from China). The Commission currently is scheduled to complete and file its determination and views of the Commission on April 1, 2024.
5. *Outstanding action jackets:* none.

CONTACT PERSON FOR MORE INFORMATION: Sharon Bellamy, Supervisory Hearings and Information Officer, 202–205–2000.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 11, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–05484 Filed 3–11–24; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1292]

Certain Replacement Automotive Lamps II; Notice of the Commission's Final Determination Finding No Violation of Section 337; Termination of the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has found no violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On January 24, 2022, the Commission instituted this investigation under

section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based on a complaint filed by Hyundai Motor Company of Seoul, Republic of Korea and Hyundai Motor America, Inc. of Fountain Valley, CA (collectively, ''Hyundai''). *See* 87 FR 3583–84 (Jan. 24, 2022). The complaint alleges a violation of section 337 based upon the importation into the United States, sale for importation, or sale after importation into the United States of certain replacement automotive lamps by reason of infringement of certain claims of U.S. Design Patent Nos. D617,478; D618,835; D618,836; D631,583; D637,319; D640,812; D655,835; D664,690; D709,217; D736,436; D738,003; D739,057; D739,574; D740,980; D759,864; D759,865; D771,292; D780,351; D818,163; D829,947; and D834,225 (collectively, ''Asserted Patents''). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation names four respondents: (1) TYC Brother Industrial Co., Ltd. of Tainan, Taiwan; (2) Genera Corporation (dba. TYC Genera) of Brea, California; (3) LKQ Corporation of Chicago, Illinois; and (4) Keystone Automotive Industries, Inc. of Exeter, Pennsylvania (collectively, ''Respondents''). *Id.* The Office of Unfair Import Investigations is not named as a party.

On February 7, 2022, the Chief Administrative Law Judge (''CALJ'') ordered an evidentiary hearing for both Inv. Nos. 337–TA–1291 and 337–TA–1292 on the economic prong of the domestic industry requirement pursuant to the Commission's pilot program for interim initial determinations (''IID''). *See* Order No. 7 (Feb. 7, 2022). The combined evidentiary hearing was held on April 20, 2022. On July 1, 2022, the CALJ issued an IID finding that Hyundai has satisfied the economic prong of the domestic industry requirement with respect to all of the asserted design patents. On August 24, 2022, the Commission determined to review the IID. *See* Comm'n Notice (Aug. 24, 2022).

On January 24, 2023, the CALJ issued a final initial determination (''FID'') finding a violation of section 337 by Respondents based on infringement of each of the Asserted Patents. The FID also finds that no Asserted Patent is invalid as anticipated or obvious. The FID further finds that Hyundai has satisfied the technical prong as to certain representative domestic industry products. Concerning the economic prong of the domestic industry requirement, the FID reduces Hyundai's alleged investments due to Hyundai's failure to establish that certain of its alleged domestic industry products are representative of other alleged domestic industry products. The FID finds, however, that the economic prong of the domestic industry requirement is satisfied for all of the Asserted Patents based on the reduced investments. The CALJ also simultaneously issued a recommended determination on remedy and bonding (''RD'') recommending that, if the Commission finds a violation, it should issue a limited exclusion order but not issue any cease and desist order against any of Respondents.

On February 6, 2023, Respondents filed a petition for review challenging the FID's findings on the economic prong of the domestic industry requirement, infringement, and validity. Also on February 6, 2023, Hyundai filed a petition for review challenging the RD's recommendations and contingently petitioning regarding the FID's findings concerning non-satisfaction of the technical prong of the domestic industry requirement for certain non-representative products. On February 14, 2023, Respondents and Hyundai filed responses to each other's petitions.

On February 23, 2023, the Commission received public interest submissions pursuant to Commission Rule 210.50(a)(4) from the LKQ Respondents and the TYC Respondents. 19 CFR 210.50(a)(4). On February 22 and 23, 2023, the Commission received twelve responses to the Commission notice seeking public interest submission. 88 FR 7759–7760 (Feb. 6, 2023).

On May 11, 2023, the Commission determined to review the FID in its entirety. 88 FR 31522–24 (May 17,2023). The Commission asked the parties to address four questions, which related to infringement, the technical prong of the domestic industry requirement, and the economic prong of the domestic industry requirement. *Id.* The Commission also requested briefing from the parties, interested government agencies, and the public concerning remedy, bonding, and the public interest. *Id.*

On May 25, 2023, Hyundai and Respondents filed their initial written responses to the Commission's request for briefing. On June 1, 2023, Hyundai and Respondents filed their reply submission.

On June 15, 2023, Respondents filed a motion to strike a declaration filed with the Hyundai reply submission. On June 26, 2023, Hyundai filed an opposition to the motion to strike.

Having reviewed the record of the investigation, including the IID, the FID, and the parties' petitions, responses, and other submissions, the Commission has determined to find no violation of section 337 with respect to the Asserted Patents. Specifically, the Commission has determined to vacate the IID and the FID's economic prong findings and find that Hyundai has failed to satisfy the economic prong of the domestic industry requirement with respect to any of the Asserted Patents. The Commission has further determined to take no position on the issues of infringement, satisfaction of the technical prong of the domestic industry requirement, and invalidity. The Commission further finds that Respondents' motion to strike the declaration filed with Hyundai's reply submission is moot in view of the finding that there is no violation of section 337 and the public interest factors do not need to be addressed.

The investigation is terminated with a finding of no violation of section 337. The Commission's reasoning in support of its determinations is set forth more fully in its opinion.

Commissioner Schmidtlein does not join the majority's opinion but agrees that Hyundai has failed to establish the economic prong of the domestic industry requirement for any of the Asserted Patents. She therefore agrees that there has been no violation of section 337 in this investigation. She explains her views in a concurring opinion.

The Commission vote for this determination took place on March 7, 2024.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.
Issued: March 7, 2024.

Katherine Hiner,

Supervisory Attorney.

[FR Doc. 2024–05273 Filed 3–12–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1346]

Certain Marine Air Conditioning Systems, Components Thereof, and Products Containing the Same; Notice of a Commission Determination To Review in Part and, on Review, To Affirm With Modification a Final Initial Determination Finding No Violation; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part and, on review, to affirm with modification a final initial determination (''FID'') of the presiding administrative law judge (''ALJ''). The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Namo Kim, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3459. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: On December 7, 2022, the Commission instituted this investigation based on a complaint, as supplemented, filed by Dometic Corporation of Rosemont, Illinois and Dometic Sweden AB of Solna, Sweden (collectively, ''Dometic''). 87 FR 76216–17 (Dec. 13, 2022). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337'') based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain marine air conditioning systems, components thereof, and products containing same by reason of the infringement of certain claims of U.S. Patent No. 8,056,351 (''the '351 patent''). *Id.* The complaint further alleges that a domestic industry (''DI'') exists. *Id.* The notice of institution named four (4) respondents: (1) Shanghai Hopewell Industrial Co. Ltd. of Shanghai, China; (2) Shanghai Hehe Industrial Co. Ltd. of Shanghai, China; (3) CitiMarine, L.L.C. of Doral, Florida; and (4) Mabru Power Systems, Inc. of Dania Beach, Florida (collectively, ''Respondents''). *Id.*

On August 28, 2023, the Commission granted in part summary determination that the economic prong of the DI requirement is satisfied. Order No. 23, *unreviewed by* Comm'n Notice (Aug. 28, 2023).

On September 13, 2023, the Commission affirmed an initial determination granting in part summary determination of invalidity of claims 1–2, 4–5, 7 of the '351 patent. Order No. 19, *aff'd by* Comm'n Notice (September 13, 2023).

The presiding ALJ held an evidentiary hearing on September 18–21, 2023.

On October 31, 2023, the Commission affirmed an initial determination terminating the investigation with respect to claims 3, 11 and 17 of the '351 patent. Order No. 30, *unreviewed by* Comm'n Notice (October 31, 2023). Accordingly, at the time the FID was issued, claims 18–22 of the '351 patent remained pending.

On December 8, 2023, the ALJ issued the FID finding no violation of section 337. Specifically, the FID finds that Dometic failed to show infringement or to satisfy the technical prong of the DI requirement because ''the DI Products do not possess two axes'' as required by the remaining asserted claims under the FID's claim construction. Despite finding no infringement, the ALJ conducted an independent analysis of the accused products beyond the infringement theories presented by Dometic and determined that some accused products satisfy all limitations of the asserted claims. Lastly, the FID finds that all remaining asserted claims are valid.

The FID also includes a Recommended Determination (''RD'') recommending, should the Commission find a violation of section 337, that the Commission issue: (1) a limited exclusion order with the Commission's standard certification provision, which does not identify non-infringing articles as requested by the respondents; and (2) a cease-and-desist order against any respondent found to be in violation. The RD further recommends that the Commission set no bond (zero percent) during the period of Presidential review.

On December 22, 2023, both parties (Dometic and Respondents) petitioned for Commission review of FID's findings. Specifically, Dometic requests Commission review of the FID's findings concerning: (1) claim construction; (2) non-infringement; (3) the technical prong of the DI requirement; and (4) validity of the asserted claims concerning the claim construction and secondary considerations. Respondents request Commission review of the FID's findings concerning: (1) the technical prong; (2) certain factual findings related to infringement; (3) excluding Respondents' failure of proof arguments related to infringement; and (4) validity, in particular whether a certain product qualifies as prior art and whether the ALJ abused his discretion by excluding a certain prior art exhibit. Respondents also request contingent review of the following issues: (1) claim construction and (2) validity.

On December 27, 2023, the Commission published its post-RD **Federal Register** notice seeking submissions on public interest issues raised by the relief recommended by the ALJ should the Commission find a violation. 88 FR 89466–67 (Dec. 27, 2023). No responses were filed from the public.

On January 4, 2024, both parties (Dometic and Respondents) responded to each other's petition for review of the FID.

On January 9, 2024, both parties (Dometic and Respondents) filed a statement on the public interest pursuant to Commission Rule 210.50(a)(4), 19 CFR 210.50(a)(4).

The Commission, having reviewed the record in this investigation, including the FID and the parties' petitions and responses thereto, has determined to review in part and, on review, to affirm with modification the FID's finding of no violation. In particular, the Commission reviews and, on review, supplements with supporting extrinsic evidence the FID's construction of the claim limitation ''the blower being rotatable about [a] first axis so that the outlet can be oriented toward a first direct[i]on and a second direction, and the first and second directions point to substantially different lateral sides of the main body'' recited in claim 18 of the '351 patent. The Commission has also determined to review the FID's findings concerning infringement and the technical prong of the DI requirement and, on review, to affirm the FID's finding of non-infringement and non-satisfaction of the technical prong, but to vacate the ALJ's independent findings that some of the accused products (*i.e.,* Mabru SC07, which represents all Mabru accused products) satisfy all limitations of the asserted claims, as well as the ALJ's independent technical prong findings on the DI products. The Commission

has further determined to review and, on review, to take no position on certain of the FID's invalidity findings and the findings that certain accused products satisfy a dependent claim limitation of the '351 patent. The Commission has determined not to review the remainder of the FID.

The Commission issues its opinion herewith setting forth its determinations on certain issues. The investigation is terminated.

The Commission vote for this determination took place on March 7, 2024.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 7, 2024.

Katherine Hiner,

Supervisory Attorney.

[FR Doc. 2024–05274 Filed 3–12–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1291]

Certain Replacement Automotive Lamps; Notice of the Commission's Final Determination Finding No Violation of Section 337; Termination of the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that complainants Kia Corporation and Kia America, Inc. failed to demonstrate a violation of section 337 of the Tariff Act of 1930, as amended, by any of the named respondents in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: On January 24, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based on a complaint filed on behalf of complainants Kia Corporation of Seoul, Korea and Kia America, Inc. of Irvine, California (collectively, ''Kia''). 87 FR 3584–85 (Jan. 24, 2022). The complaint, as supplemented and amended, alleges a violation of section 337 in the importation into the United States, the sale for importation, and the sale after importation within the United States after importation of certain replacement automotive lamps by reason of infringement of U.S. Design Patent Nos. D592,773 (the ''773 patent''); D635,701 (the ''701 patent''); D636,506 (the ''506 patent''); D650,931 (the ''931 patent''); D695,933 (the ''933 patent''); D705,963 (the ''963 patent''); D709,218 (the ''218 patent''); D714,975 (the ''975 patent''); D714,976 (the ''976 patent''); D720,871 (the ''871 patent''); D749,757 (the ''757 patent''); D749,762 (the ''762 patent''); D749,764 (the ''764 patent''); D774,222 (the ''222 patent''); D774,223 (the ''223 patent''); D776,311 (the ''311 patent''); D781,471 (the ''471 patent''); D785,833 (the ''833 patent''); D785,836 (the ''836 patent''); and D792,989 (the ''989 patent'') (together, ''Asserted Patents''). *Id.* at 3584. The notice of investigation names as respondents TYC Brother Industrial Co., Ltd. of Tainan, Taiwan; Genera Corporation (dba TYC Genera) of Brea, California; LKQ Corporation of Chicago, Illinois; and Keystone Automotive Industries, Inc. of Exeter, Pennsylvania (together, ''Respondents''). The Office of Unfair Import Investigations is not participating in this investigation.

On February 7, 2022, the Chief ALJ (''CALJ'') ordered an evidentiary hearing for both Inv. Nos. 337–TA–1291 and 337–TA–1292 on the economic prong pursuant to the Commission's pilot program for interim initial determinations (''IID''). Order No. 6 (Feb. 7, 2022). The combined evidentiary hearing was held on April 20, 2022. On July 1, 2022, the CALJ issued an IID finding that Kia has satisfied the economic prong of the domestic industry requirement with respect to all of the asserted design patents. On August 24, 2022, the Commission determined to review the IID. Notice (Aug. 24, 2022). The investigation was reassigned to the presiding ALJ on July 6, 2022.

On January 24, 2023, the presiding ALJ issued a final initial determination (''Final ID'') finding a violation of section 337 by Respondents with respect to the '773, '701, '506, '931, '933, '218, '975, '976, '871, '762, '764, '222, '223, '311, '833, '836, and '989 patents. Final ID at 1. The Final ID finds no violation with respect to the '963, '757, and '471 patents based on noninfringement and failure to satisfy the technical prong of the domestic industry requirement. *Id.* at 1, 284–86. The Final ID also finds that no asserted patent is invalid as anticipated or obvious. *Id.* Concerning the economic prong of the domestic industry requirement, the Final ID reduced Kia's alleged investments due to Kia's failure to establish that certain of its alleged domestic industry products are representative of other alleged domestic industry products, but finds that the economic prong of domestic industry requirement is satisfied for all of the Asserted Patents. *Id.* at 33–37.

On February 6, 2023, Respondents filed a petition for review challenging the Final ID's findings on the economic prong of the domestic industry requirement, infringement, and validity. Also on February 6, 2023, Kia filed a petition for review challenging the Final ID's findings of noninfringement and contingently petitioning regarding the Final ID's findings concerning non-satisfaction of the technical prong of the domestic industry requirement regarding the '963, '757, and '471 patents. On February 14, 2023, Kia and Respondents filed responses to each other's petitions.

On January 25, 2023, the Commission requested submissions regarding the public interest. 88 FR 5919–20 (Jan. 30, 2023). The Commission received submissions from Thomas Lee, Dennis Shiau, Peter Nguyen, John Chang, Raymond Tsai, Christopher Patti, Edward Salamy, Paul Tetrault, Clark Plucinski, Gay Gordon-Byrne, the Alliance for Automotive Innovation, and Gregory Cote. On February 23, 2023, the Commission also received submissions on the public interest from Respondents pursuant to Commission Rule 210.50(a)(4). 19 CFR 210.50(a)(4).

On May 11, 2023, the Commission determined to review the Final ID in its entirety and sought briefing from the parties on certain issues and briefing from the parties, interested government agencies, and the public concerning remedy, bonding, and the public interest. 88 FR 31520–22 (May 17, 2023). Kia and Respondents filed initial

submissions on May 25, 2023, and reply submissions on June 1, 2023.

On June 15, 2023, Respondents moved to strike a declaration of Brian Sciumbato, who testified regarding the public interest factors.

Having examined the record of this investigation, including the IID, the Final ID, the petitions, responses, and other submissions from the parties and the public, the Commission has determined to vacate the IID and the Final ID's economic prong findings and find that Kia has failed to satisfy the economic prong of the domestic industry requirement with respect to any of the Asserted Patents. The Commission has further determined to take no position on the issues of infringement, satisfaction of the technical prong of the domestic industry requirement, and invalidity. The Commission also denies Respondents' motion to strike the Sciumbato declaration as moot.

The Commission's determinations are explained more fully in the accompanying Opinion. All other findings in the ID under review that are consistent with the Commission's determinations are affirmed. The investigation is hereby terminated.

Commissioner Schmidtlein does not join the majority's opinion but agrees that Kia has failed to establish the economic prong of the domestic industry requirement for any of the Asserted Patents. She therefore agrees that there has been no violation of section 337 in this investigation. She explains her views in a concurring opinion.

The Commission vote for this determination took place on March 7, 2024.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 7, 2024.

Katherine Hiner,

Supervisory Attorney.

[FR Doc. 2024–05272 Filed 3–12–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–078]

Fine Denier Polyester Staple Fiber; Institution of Investigation, Scheduling of Public Hearings, and Determination That the Investigation Is Extraordinarily Complicated

AGENCY: United States International Trade Commission.

ACTION: Notice of institution of investigation and scheduling of public hearings.

SUMMARY: Following receipt of a petition for import relief, as filed on February 28, 2024, the Commission has instituted investigation No. TA–201–078 pursuant to section 202 of the Trade Act of 1974 (''the Act'') to determine whether fine denier polyester staple fiber (''fine denier PSF'') is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The Commission has deemed the petition to have been filed on February 28, 2024. The Commission has determined that this investigation is ''extraordinarily complicated,'' and will make its injury determination by July 9, 2024. The Commission will submit to the President the report required under section 202(f) of the Act within 180 days after the date on which the petition was filed, or by August 26, 2024.

DATES: Applicable February 28, 2024.

FOR FURTHER INFORMATION CONTACT: Kristina Lara (202–205–3386), 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 this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted, pursuant to section 202 of the Act (19 U.S.C. 2252), in response to a petition, as filed on February 28, 2024, by Fiber Industries LLC d/b/a Darling Fibers (''Darling''), Nan Ya Plastics Corp, America (''Nan Ya''), and Sun Fiber LLC (''Sun Fiber''), producers of fine denier PSF in the United States. Darling, Nan Ya, and Sun Fiber allege that fine denier PSF is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, and the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The Commission must submit its report on this investigation to the President no later than 180 days after institution, which in this case falls on August 26, 2024. (19 U.S.C. 2252(f)).

The imported article covered by this investigation is fine denier PSF, not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are not covered by this investigation:

(1) PSF equal to or greater than 3.3 decitex (more than 3 denier, inclusive) currently imported under HTSUS statistical reporting numbers 5503.20.0045 and 5503.20.0065.

(2) Low-melt PSF defined as a bicomponent polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component, which is currently imported under HTSUS statistical reporting number 5503.20.0015.

For Customs purposes, the fine denier PSF covered by the investigation is provided for under Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 5503.20.0025. These HTSUS numbers are provided for convenience and the written description of the scope is dispositive.

Determination that investigation is extraordinarily complicated.—The Commission has determined that this investigation is ''extraordinarily complicated'' within the meaning of section 202(b)(2)(B) of the Act (19 U.S.C. 2252(b)(2)(B)). The Commission's decision to designate this investigation ''extraordinarily complicated'' is based on the complexity of the issues, including the existence of antidumping and countervailing duty orders on certain imports covered by this investigation. Ordinarily, the Commission would have been required to make its injury determination within 120 days after the petition was filed, or by June 27, 2024. (19 U.S.C. 2252 (b)(2)(A)). The statute permits the Commission to take up to 30 additional days to make its injury determination in an investigation where it determines that the investigation is extraordinarily

complicated. In this instance, the Commission intends to take additional days and make its injury determination by July 9, 2024.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 21 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of confidential business information (CBI) under an administrative protective order (APO) and CBI service list.—Pursuant to section 206.17 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 CFR 206.17(a)(3)(iii)) under the APO issued in the investigation, provided that the application is made not later than 21 days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive CBI under the APO.

The Commission may transmit CBI to the Office of the United States Trade Representative (USTR) and may include CBI in the report it sends to the President and USTR for use in decision-making related to this proceeding. Additionally, all information, including CBI, submitted in this investigation may be disclosed to and used by (i) the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any CBI in a manner that would reveal the operations of the firm supplying the information.

Hearings on injury and remedy.—The Commission has scheduled separate hearings in connection with the injury and remedy phases of this investigation. The hearing on injury will be held beginning at 9:30 a.m. on June 4, 2024, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. In the event that the Commission makes an affirmative injury determination or is equally divided on the question of injury in this investigation, a hearing on the question of remedy will be held beginning at 9:30 a.m. on July 23, 2024. Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before May 24, 2024, for the injury hearing, and July 17, 2024, for the remedy hearing. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearings.

All parties and nonparties desiring to appear at the hearings and make oral presentations should participate in prehearing conferences to be held on May 31, 2024, for the injury hearing and July 19, 2024, for the remedy hearing, if deemed necessary. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than 4 p.m. on the business day prior to the hearing. Oral testimony and written materials to be submitted at the public hearings are governed by sections 201.6(b)(2) 201.13(f), and 206.5 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 business days prior to the date of the respective hearings.

Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the investigations, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID–19 test result may be submitted by 3 p.m. the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.*

Written submissions.—Each party who is an interested party may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of sections 201.8, 206.7, and 206.8 of the Commission's rules. The deadline for filing prehearing briefs on injury is May 28, 2024; that for filing prehearing briefs on remedy, including any commitments pursuant to 19 U.S.C. 2252(a)(6)(B), is July 16, 2024. Parties may also file written testimony in connection with their presentation at the hearing, as provided in sections 201.13, 206.5, and 206.8 of the Commission's rules, and posthearing briefs, which must conform with the provisions of sections 201.8, 201.13, 206.7, and 206.8 of Commission's rules. The deadline for filing posthearing briefs for the injury phase of the investigation is June 11, 2024; the deadline for filing posthearing briefs for the remedy phase of the investigation, if any, is July 29, 2024.

No posthearing brief, either in the injury phase or any remedy phase, shall exceed fifteen (15) pages of textual material, double-spaced and single-sided, when printed out on pages measuring 8.5 x 11 inches. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing for the injury phase, and at any hearing for the remedy phase, within a specified time. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of injury on or before June 11, 2024, and pertinent to the consideration of remedy on or before July 29, 2024. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain CBI must also conform with the requirements of sections 201.6 and 206.17 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Any additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, will not be accepted unless good cause is shown for accepting such a submission, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and

Procedure, part 201, subparts A and B (19 CFR part 201), and part 206, subparts A and B (19 CFR part 206).

Authority: This investigation is being conducted under authority of section 202 of the Act; this notice is published pursuant to section 202(b)(3) of the Act.

By order of the Commission.

Issued: March 8, 2024.

Katherine Hiner,

Supervisory Attorney.

[FR Doc. 2024–05338 Filed 3–12–24; 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—ASTM International

Notice is hereby given that, on February 28, 2024, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ASTM International (''ASTM'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. 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, ASTM has provided an updated list of current, ongoing ASTM activities originating between December 12, 2023 and February 10, 2024 designated as Work Items. A complete listing of ASTM Work Items, along with a brief description of each, is available at *http://www.astm.org.*

On September 15, 2004, ASTM 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 10, 2004 (69 FR 65226).

The last notification was filed with the Department on September 26, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 20, 2023 (88 FR 80763).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05304 Filed 3–12–24; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc.

Notice is hereby given that, on December 20, 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''), Pistoia Alliance, Inc. 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, Blue Hat, London, UNITED KINGDOM; and Amino Data, London, UNITED KINGDOM have been added as parties to the venture.

Also, Binocular Vision Advisors LLC, San Francisco, CA; Pangaea Data, London, UNITED KINGDOM; Qubit Pharmaceuticals, Paris, FRANCE; Molecule One sp.z o.o., Warszawa, POLAND; Vivenics, Oss, NETHERLANDS; A4BEE, Wrocław, POLAND; DeepMatter Limited, Glasgow, UNITED KINGDOM; Gilead Sciences, Foster City, CA; Agilent, Santa Clara, CA; QC Ware Corp., Palo Alto, CA; Orbis Labsystems Services, Leopardstown, IRELAND; Lifebit Biotech Limited, London, UNITED KINGDOM; Eagle Genomics Ltd., Cambridge, UNITED KINGDOM; QuEra, Boston, MA; MolPort, Riga, LATVIA; and Biomage, Edinburgh, UNITED KINGDOM 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 Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. 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 15, 2009 (74 FR 34364).

The last notification was filed with the Department on October 4, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on February 5, 2024 (89 FR 7731).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05303 Filed 3–12–24; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Utility Broadband Alliance

Notice is hereby given that, on February 2, 2024, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Utility Broadband Alliance (''UBBA'') 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, Wirepas USA LLC, New York, NY; Rosenberger Site Solutions, LLC, Lake Charles, LA; Colorado Springs Utilities, Colorado Springs, CO; and Tarana Wireless, Milpatas, 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 UBBA intends to file additional written notifications disclosing all changes in membership.

On May 4, 2021, UBBA 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 10, 2021 (86 FR 30981).

The last notification was filed with the Department on November 9, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 15, 2023 (88 FR 86935).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05317 Filed 3–12–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Separation Technology Research (Star) Program: Phase 3 (Star Phase 3)

Notice is hereby given that, on January 9, 2024, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group Separation Technology Research (STAR) Program: Phase 3 (STAR Phase 3) 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, Schlumberger Norge AS, Stavanger, NORWAY, 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 STAR Phase 3 intends to file additional written notifications disclosing all changes in membership or planned activities.

On August 15, 2023, STAR Phase 3 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 October 6, 2023, (88 FR 69671).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05311 Filed 3–12–24; 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—Z-Wave Alliance, Inc.

Notice is hereby given that, on January 26, 2024, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (the ''Act''), Z-Wave Alliance, Inc. (the ''Joint Venture'') 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, Oliver IQ Inc., Sandy, UT; Shenzhen Longzhiyuan Technology Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Idlespace Technology Company Co., Ltd., Ontario, CANADA; and iHomeFuture, Dubai, UNITED ARAB EMIRATES have joined as parties to the venture.

Also, VDA Group SpA a S.U., Pordenone, ITALY; ELTEX Enterprise Ltd., Novosibirsk, RUSSIA; BRK Brands Inc., Aurora, IL; Buo Home SL, Parets Del Valles, SPAIN; GroupSYS Pty Ltd, Erina, AUSTRALIA; Pyronix Limited, Rotherham, UNITED KINGDOM; Worthington Distribution, Tafton, PA; Rently Keyless, Los Angeles, CA; Daikin Airconditioning (Singapore) Pte Ltd., Singapore, SINGAPORE; Spectrum Brands Inc., Lake Forest, CA; Devicebook Inc., Bellevue, WA; and Zone-B2B SARL, Saint-Prex, SWITZERLAND have withdrawn as parties to the venture.

In addition, an existing member, Fibar Group S.A. has changed its name to Nice-Polska Sp. Z.o.o., Wysogotowo, POLAND.

Finally, Canny Electrics, Melbourne, AUSTRALIA withdrew as a party to the venture on January 9, 2024; and rejoined as a party to the venture on January 24, 2024.

No other changes have been made in either the membership or the planned activity of the venture. Membership in this venture remains open, and the Joint Venture intends to file additional written notifications disclosing all changes in membership.

On November 19, 2020, the Joint Venture 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 1, 2020 (85 FR 77241).

The last notification was filed with the Department on November 1, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 15, 2023 (88 FR 86933).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05308 Filed 3–12–24; 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, January 5, 2024, 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, Avalanche Energy Designs, Inc., Tukwila, WA; Centrifugal Energy LLC, Pompton Plains, NJ; Fedsprout, Princeton, NJ; Inergy, Chubbuck, ID; Iron Bear Technologies LLC, Ellicott City, MD; MobileNuclear Energy LLC, Fernandina Beach, FL; NetThunder, Buffalo Grove, IL; and Noresco, Westborough, MA 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 3, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 15, 2023 (88 FR 86929).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05319 Filed 3–12–24; 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—R Consortium, Inc.

Notice is hereby given that, on January 29, 2024, pursuant to section

6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), R Consortium, Inc. (''R 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, Parexel International Corporation, Waltham, MA, 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 R Consortium intends to file additional written notifications disclosing all changes in membership.

On September 15, 2015, R 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 October 2, 2015 (80 FR 59815).

The last notification was filed with the Department on June 6, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 22, 2023 (88 FR 57129).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05309 Filed 3–12–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Numerical Propulsion System Simulation

Notice is hereby given that, on January 4, 2024, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Numerical Propulsion System Simulation (''NPSS'') 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, GE Vernova, Cambridge, MA, 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 NPSS intends to file additional written notifications disclosing all changes in membership or planned activities.

On December 11, 2013, NPSS 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 February 20, 2014, (79 FR 9767).

The last notification was filed with the Department on November 10, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 15, 2023, (88 FR 86940).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05312 Filed 3–12–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Expeditionary Missions Consortium—Crane

Notice is hereby given that, on January 11, 2024, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Expeditionary Missions Consortium—Crane (''EMC^2'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the identities of the parties to the venture are: ACMI-Austin, LLC, Austin, TX; Advanced Simulation Technology Inc., Herndon, VA; Aegis Power Systems, Inc., Murphy, NC; Aerovel Corporation, Bingen, WA; Alluvionic Inc., Melbourne, FL; Amentum Services, Inc., Chantilly, VA; American Rheinmetall Munition Inc., Stafford, VA; Applied Information Sciences, Inc, Reston, VA; Applied Technology, Inc., King George, VA; Assured Information Security, Inc., Rome, NY; Astrapi Corporation, Dallas, TX; Asymmetric Technologies, LLC, Dublin, OH; Battelle, Columbus, OH; Beast Code LLC, Fort Walton Beach, FL; Bigelow Family Holdings LLC DBA Mettle Ops, Sterling Heights, MI; Boston Engineering Corporation, Waltham, MA; CFD Research Corporation, Huntsville, AL; Cisco Systems, Inc., San Jose, CA; Colvin Run Networks, Inc., Tysons, VA; Concurrent Technologies Corporation, Johnstown, PA; Corvid Technologies, LLC, Mooresville, NC; DataSoft Corp., Phoenix, AZ; Davidson Technologies Incorporated, Huntsville, AL; deciBel Research, Inc., Huntsville, AL; Design West Technologies, Inc., Tustin, CA; Dignitas Technologies, Orlando, FL; DKW Consulting LLC, Tallahassee, FL; ElbitAmerica, Inc., Fort Worth, TX; Eos Energetics Inc., Penrose, CO; EPIQ Design Solutions, Rolling Meadows, IL; EWA Government Systems, Inc.; Exergi Predictive, Hugo, MN; Exquadrum Inc., Victorville, CA; Fenix Group, Inc., Chantilly, VA; G3 Technologies, Columbia, MD; GaN Corporation, Huntsville, AL; GenXComm, Austin, TX; GIRD Systems, Inc, Cincinnati, OH; Graf Research Corporation, Blacksburg, VA; Guidehouse Inc, Mclean, VA; HDT Expeditionary—Global, Solon, OH; HDT Expeditionary Systems, Fredericksburg, VA; Hyperion Technology Group, Inc., Tupelo, MS; iGov Technologies, Inc., Reston, VA; Indiana Microelectronics, LLC, West Lafayette, IN; Integrated Solutions For Systems, Inc., Huntsville, AL; Integration Innovation Inc, Huntsville, AL; Intuitive Research and Technology Corporation, Huntsville, AL; Iron EagleX, Inc., Tampa, FL; JEM Engineering, LLC, Laurel, MD; Karem Aircraft, Inc., Lake Forest, CA; KEF Robotics, Pittsburg, PA; KnowledgeBridge International, Chantilly, VA; Kord Technologies, LLC, Huntsville, AL; Kostas Research Institute, Burlington, MA; Kowalski Heat Treating, Cleveland, OH; KPMG LLP, Mclean, VA; L2NL, LLC, Charleston, SC; L3Harris Maritime Services, Inc., Norfolk, VA; Laine LLC, Goose Creek, SC; Lockheed Martin Corporation, Grand Prairie, TX; Ludlum Measurements, Inc. dba VPI Technology, Draper, UT; Makai Ocean Engineering, Inc., Waimanalo, HI; Marine Ventures International, Inc., Stuart, FL; MATBOCK, LLC, Virginia Beach, VA; MBDA Incorporated, Huntsville, AL; MEPSS LLC, Indian Harbour Beach, FL; Merril Technologies Group, Inc., Saginaw, MI; Mistral Inc., Bethesda, MD; Munro & Associates, Inc., Auburn Hills, MI; NAG, LLC dba NAG Marine, Norfolk, VA; Navmar Applied

Sciences Corporation, Warminster, PA; NIC4, Inc. d/b/a Network Innovations U.S. Government, Tampa, FL; Northrop Grumman Defense Systems, Mclean, VA; Northrop Grumman Systems Corporation, Plymouth, MN; Nostromo, LLC, Kennebunk, ME; NOVA Power Solutions, Inc., Sterling, VA; Oceanetics, Annapolis, MD; Opto-Knowledge Systems, Inc., Torrance, CA; Otoole Tek LLC, Rocky Hill, CT; Outpost Technologies, Inc., Huntsville, AL; Parsons Government Services, Centreville, VA; Pathfinder Wireless Corp., Seattle, WA; Peerless Technologies Corporation, Fairborn, OH; Persistent Systems, LLC, New York, NY; Pison Technology, Boston, MA: Plasan North America, Inc., Walker, MI; Precision Products Inc, Dalton, GA; PTI Tech, Clifton, NJ; Purdue Applied Research Institute, LLC, West Lafayette, IN; Questek Innovations LLC, Evanston, IL; RadioSoft, Inc. (dba LS telcom a RadioSoft operation), Clarkesville, GA; Rafael Systems Global Sustainment, LLC, Reston, VA; R–DEX Systems, Inc., Woodstock, GA; REDLattice, Inc., Chantilly, VA; Resource Management Concepts, Inc., Lexington Park, MD; Rocal Corp d.b.a Rebling Plastings, Warrington, PA; Rocky Mountain Scientific Laboratory, Littleton, CO; Raytheon Company, El Segundo, CA; Saab, Inc., East Syracuse, NY; SAVIT Corporation, Rockaway, NJ; SCHOTT North America, Inc, Duryea, PA; Sciens Innovations, LLC, York, PA; Sentient Digital dba Entrust Government Solutions, New Orleans, LA; Siemens Government Technologies, Inc., Reston, VA; Sierra Nevada Corporation, Englewood, CO; Signature Science LLC, Austin, TX; Smartronix, LLC, Hollywood, MD; Southwest Research Institute, San Antonio, TX; Spectral Labs Incorporated, San Diego, CA; Steiner eOptics, Inc, Miamisburg, OH; Strategy Robot, Inc., Pittsburgh, PA; Technology Service Corporation dba TSC, Arlington, VA; Texas Research Institute Austin, Inc., Austin, TX; Thales Defense & Security, Inc., Clarksburg, MD; ThayerMahan Inc., Groton, CT; The SURVICE Engineering Company, LLC, Belcamp, MD; The University of Alabama in Huntsville, Huntsville, AL; TLC Solutions, Inc., Saint Augustine, FL; Vadum Inc, Raleigh, NC; Valkyrie Enterprises, LLC, Virginia Beach, VA; VES LLC, Aberdeen Proving Ground, MD; Viasat, Carlsbad, CA; Vsolvit LLC, Henderson, NV; W R Systems, Ltd., Fairfax, VA; and XR 2 Lead LLC, Dumfries, VA.

The general area of EMC²'s planned activity is to conduct research, research and development, and prototyping of projects and programs in the following technology areas: Verification and Validation, Artificial Intelligence/Machine Learning, Multispectral Sensing, Design Assurance, Outreach and Standards, Materials and Processes, Manufacturing Technology, Modeling and Simulation, Spectrum Warfare Technologies, and Expeditionary Warfare Technologies.

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05301 Filed 3–12–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Maritime Sustainment and Technology Innovation Consortium

Notice is hereby given that, on January 8, 2024, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Maritime Sustainment and Technology Innovation Consortium (''MSTIC'') 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, 3D Systems Inc., Littleton, CO; ATI, Inc., Pittsburgh, PA; Castheon, Inc., Thousand Oaks, CA; Clear Carbon & Components, Inc., Bristol, RI; Corsha, Inc., Vienna, VA; DM3D Technology LLC, Auburn Hills, MI; DTCUBED LLC, Sewell, NJ; Ellis & Watts Global Industries, Inc., Batavia, OH; Elzly Technology Corp., Reston, VA; Exponent, Inc., Menlo Park, CA; G.S.E. Dynamics, Inc., Hauppauge, NY; L3 Technologies, Inc—L3 KEO, Northampton, MA; Milwaukee Valve Company, Inc., New Berlin, WI; Mission Focused Systems, Inc., Royersford, PA; Pacific Engineering, Inc., Roca, NE; Pioneering Decisive Solutions, Inc., California, MD; Precise Systems, Inc., Lexington Park, MD; Saab, Inc., East Syracuse, NY; Sentient Digital, Inc., New Orleans, LA; Signature Science LLC, Austin, TX; Skuld LLC, London, OH; and The Entwistle Company LLC, Hudson, MA, 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 MSTIC intends to file additional written notifications disclosing all changes in membership.

On October 21, 2020, MSTIC 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 19, 2020 (85 FR 73750).

The last notification was filed with the Department on October 6, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 15, 2023 (88 FR 86936).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05315 Filed 3–12–24; 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—Naval Surface Technology & Innovation Consortium

Notice is hereby given that, on January 9, 2024, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Naval Surface Technology & Innovation Consortium (''NSTIC'') 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, 3D Systems, Inc., Littleton, CO; Aunautic Technologies, National City, CA; Bowhead Avionics Manufacturing LLC, Plano, TX, CoAspire LLC, Fairfax, VA; DTCUBED LLC, Sewell, NJ; Emelody Worldwide, Inc., Peachtree Corners, GA; G3 Technologies, Columbia, MD; GoHypersonic Incorporated, Dayton, OH; KCG Engineering Group, Inc., Virginia Beach, VA; L3Harris Interstate Electronics Corporation, Anaheim, CA; Nikira Labs, Inc., Mountain View, CA; Signature Science LLC, Austin, TX; Strategy Robot, Inc., Pittsburg, PA; Team Corporation, Burlington, WA; Teledyne FLIR Detection, Stillwater, OK; The

Ross Group Construction Corporation LLC, Tulsa, OK; Torch Technologies, Huntsville, AL; and Xona Space Systems, Burlingame, 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 NSTIC intends to file additional written notifications disclosing all changes in membership.

On October 8, 2019, NSTIC 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 12, 2019 (84 FR 61071).

The last notification was filed with the Department on October 11, 2023. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 15, 2023 (88 FR 86934).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05316 Filed 3–12–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Institute of Electrical and Electronics Engineers, Inc.

Notice is hereby given that, on November 17, 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 Institute of Electrical and Electronics Engineers, Inc. (''IEEE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. 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, 61 new standards have been initiated and 18 existing standards are being revised. More detail regarding these changes can be found at: *https://standards.ieee.org/about/sasb/sba/sep2023/. https://standards.ieee.org/about/sasb/sba/nov2023/.* The following pre-standards activities associated with IEEE Industry Connections Activities were launched or renewed: *https://standards.ieee.org/about/bog/cag/approvals/september2023/.*

The following conformity assessment programs associated with published IEEE standards and supporting their promulgation were initiated: *https://standards.ieee.org/products-programs/icap/programs/ieee-2621-standards/. https://standards.ieee.org/products-programs/icap/programs/icap-drone-program/.*

On September 17, 2004, IEEE 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 3, 2004 (69 FR 64105).

The last notification was filed with the Department on July 17, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 5, 2023 (88 FR 69232).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05306 Filed 3–12–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Armaments Consortium

Notice is hereby given that, on January 10, 2024, 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 Armaments Consortium (''NAC'') 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, Augustine Consulting, Inc., Hamilton, NJ; Aegis Power Systems, Inc., Murphy, NC; Agile Decision Sciences, LLC, Huntsville, AL; American Material Handling, Inc., Watkinsville, GA; Appleton Marine, Inc., Appleton, WI; Bridgehill Corporation, Paramus, NJ; Canopy Aerospace, Inc., Littleton, CO; Cimarron Software Services, Inc., Houston, TX; CODE Plus, Inc., Fairfax, VA; Crowdbotics Corporation, Berkeley, CA; Danbury Mission Technologies, LLC, Danbury, CT; DZYNE Technologies, LLC, Fairfax, VA; Espey Manufacturing & Electronics Corp., Saratoga Springs, NY; Final Frontier Security, LLC, Hollywood, MD; FreEnt Techologies, Inc., Huntsville, AL; General Dynamics Information Technology, Falls Church, VA; HAMR Industries, LLC, Clinton, PA; Martinez and Turek, Inc., Rialto, CA; MILCOTS, Mahwah, NJ; Munitions Industrial Base Task Force, Inc., Arlington, VA; National Security Capital, LLC, Owings Mills, MD; QTEC, Inc., Huntsville, AL; Ross Group Construction Corporation, LLC, Tulsa, OK; Sentient Digital, Inc., New Orleans, LA; Shearwater Technology, Inc., Washington, IL; Signature Science, LLC, Austin, TX; Sonardyne, Inc., Houston, TX; TGV Rockets, Inc., Washington, DC; VIAVI Solutions, LLC, Wichita, KS; and, WWM Solutions, LLC, Washington, DC 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 NAC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000, NAC 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 30, 2000 (65 FR 40693).

The last notification was filed with the Department on October 10, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 15, 2023 (88 FR 86931).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2024–05318 Filed 3–12–24; 8:45 am]

BILLING CODE 4410–11–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 24–017]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons,

scientific and technical information relevant to program planning.

DATES: Monday, March 25, 2024, 10:00 a.m.–4:30 p.m., Eastern Time.

ADDRESSES: Public attendance will be virtual only. See dial-in and Webex information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting is virtual and will take place telephonically and via Webex. Any interested person must use a touch-tone phone to participate in this meeting. The Webex connectivity information for each day is provided below. For audio, when you join the Webex event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed for each day.

On Monday, March 25, the event address for attendees is: *https://nasaevents.webex.com/nasaevents/j.php?MTID=m126693463ff0b0b0024aa7349f9250cb.*

The event number is 2830 040 7491 and the event password is JMnk7EmP7Z6 (56657367 from phones and video systems). If needed, the U.S. toll conference number is 1–415–527–5035 and the access code is 283 004 07491.

The agenda for the meeting includes the following topics:

—Science Mission Directorate (SMD) Missions, Programs and Activities

It is imperative that the meeting be held on these dates due to the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting, Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–05129 Filed 3–12–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Renew an Information Collection System; Grantee Reporting Requirements for the NSF Small Business Innovation Research and the Small Business Technology Transfer (SBIR/STTR) Programs

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: Under the Paperwork Reduction Act of 1995, and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed information collection reinstatement.

DATES: Written comments on this notice must be received by May 13, 2024, to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite E7400, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Foundation, including whether the information will have practical utility; (b) the accuracy of the Foundation's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for the NSF Small Business Innovation Research and the Small Business Technology Transfer (SBIR/STTR) Programs.

OMB Number: 3145–0252.

Expiration Date of Approval: July 31, 2023.

Type of Request: Reinstatement and request for Office of Management and Budget (OMB) approval of an information collection.

Abstract:

Proposed Project: This request is for reinstating interim reporting requirements for the NSF Small Business Innovation Research (SBIR)/Small Business Technology Transfer Research (STTR) programs.

The NSF SBIR/STTR programs focus on transforming scientific discovery into products and services with commercial potential and/or societal benefit. Unlike fundamental or basic research activities that focus on scientific and engineering discoveries, the NSF SBIR/STTR programs support the creation of opportunities to move fundamental science and engineering out of the lab and into the market at scale, through startups and small businesses representing deep technology ventures.

The NSF SBIR/STTR programs have two phases: Phase I and Phase II (with an optional Phase IIB as matching supplements). SBIR/STTR Phase I is a 6–12 month experimental or theoretical investigation that allows the awardees to determine the scientific and technical feasibility, as well as the commercial merit of the idea or concept. Phase II further develops the proposed concept, building on the feasibility project undertaken in Phase I, and accelerate the Phase I project to the commercialization stage and enhance the overall strength of the commercial potential. As such, Phase II SBIR/STTR awards have a longer expected period of performance of 24 months.

The NSF SBIR/STTR programs request approval from OMB on the reinstatement of the NSF SBIR/STTR Phase II interim/progress report data collection.

The interim/progress report will be required every six months for the life of the Phase II award. The report collects information on the technical progress of the funded NSF work, which allows managing Program Directors to monitor the project and ensure that the award is in good standing.

The report is divided into 6 sections: (1) Basic Reporting Data, (2) Level of Effort, (3) SBIR-wide Certifications, (4) Cooperative Agreement (NSF-specific Certifications), (5) Technical Narratives, and (6) Project Milestones.

The kinds of data collected from the report include name of the startup company, information on the principal investigator (PI) (name, email address, and phone number), the number of full-time equivalent (FTE) employees working at the startup, amount of funding received during the award period. In addition, information pertaining to company officers and key personnel, their corresponding ownership status, and their levels of efforts provided to the startups are also requested. Collectively, these data will enable the managing Program Directors to (1) evaluate a given company's business structure, (2) ascertain the level of commitment of the PI(s), co-PI(s), and key personnel to the startup venture, and (3) identify conflicts of interests (if any), as part of the due diligence process that the programs undertake to verify that there are no

fraudulent or inappropriate business practices.

The report also asks about: inputs (*i.e.,* project expenditures, efforts exerted by key personnel), outputs (*i.e.,* R&D activities, technical progresses), outcomes (*i.e.,* research milestones, fundraising activities), and impacts (*i.e.,* technical and/or commercial successes).

Finally, the report also requests: (1) a discussion of progresses highlighting key technical and commercial activity/results during the reporting period, (2) compliance requirements checklists from the Small Business Administration (SBA) and NSF, and (3) a Gantt chart describing the project status, as well as task assignments to key personnel in the project.

Use of the Information: The data collected will be used primarily for award monitoring. The data could also be used for congressional requests, inquiries from the NSF's Office of the Inspector General, supporting evidence of litigations, auditing, and other legal investigations, NSF internal reports, and program evaluations, if necessary.

Estimate of Burden: The estimated number of respondents is: 410. Average time to complete the interim report: 18 hours. The estimated total burden hours: 7,380 hours per year.

Respondents: The respondents are either PIs or Co-PIs listed on the NSF SBIR/STTR Proposals, Founders, and/or Co-founders of the startups funded by the NSF SBIR/STTR programs.

Dated: March 7, 2024.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2024–05270 Filed 3–12–24; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–275 LR–2 and 50–323 LR–2; ASLBP No. 24–983–02–LR–BD01]

Pacific Gas and Electric Company; Establishment of Atomic Safety and Licensing Board

Pursuant to the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Pacific Gas and Electric Company

(Diablo Canyon Nuclear Power Plant, Units 1 and 2)

This proceeding involves an application seeking a twenty-year license renewal of Facility Operating License Nos. DPR–80 and DPR–82 to authorize Pacific Gas and Electric Company to operate Diablo Canyon Nuclear Power Plant, Units 1 and 2, until, respectively, November 2, 2044, and August 26, 2045. In response to a notice published in the **Federal Register** announcing the opportunity to request a hearing, *see* 88 FR 87,817 (Dec. 19, 2023), a hearing request was submitted by email on March 4, 2024 and subsequently filed through the E-Filing System on March 5, 2024 on behalf of San Luis Obispo Mothers for Peace, Friends of the Earth, and Environmental Working Group. Additionally, the California Energy Commission filed a request to participate in the proceeding as a non-party pursuant to 10 CFR 2.315(c).

The Board is comprised of the following Administrative Judges:

Jeremy A. Mercer, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Nicholas G. Trikouros, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Dated: March 7, 2024.

Edward R. Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel, Rockville, Maryland.

[FR Doc. 2024–05277 Filed 3–12–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0056]

Information Collection: Notices, Instructions, and Reports to Workers: Inspection and Investigations

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Notices, Instructions, and Reports to Workers: Inspection and Investigations.''

DATES: Submit comments by April 12, 2024. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0056 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0056.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML24039A117.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without

charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

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

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Notices, Instructions, and Reports to Workers: Inspection and Investigations.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on November 13, 2023, 88 FR 77619.

1. *The title of the information collection:* Notices, Instructions, and Reports to Workers: Inspection and Investigations.

2. *OMB approval number:* 3150–0044.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* As necessary in order that adequate and timely reports of radiation exposure be made to individuals involved in applicable NRC-licensed activities.

6. *Who will be required or asked to respond:* Licensees authorized to receive, possess, use, or transfer material licensed by the NRC.

7. *The estimated number of annual responses:* 1,889,382 (7 Reporting + 18,200 Recordkeeping + 1,871,174.88 Third-party disclosures).

8. *The estimated number of annual respondents:* 18,200 (2,200 NRC + 16,000 Agreement States).

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 544,899 (3.5 Reporting + 18,200 Recordkeeping + 521,337.9 Third-party disclosures + 5,358 One-time burden).

10. *Abstract:* Part 19 of title 10 of the *Code of Federal Regulations* establishes requirements for notices, instructions, and reports by licensees and regulated entities to individuals participating in NRC-licensed and regulated activities and options available to these individuals in connection with Commission inspections of licensees and regulated entities, and to ascertain compliance with the provisions of the Atomic Energy Act of 1954, as amended, titles II and IV of the Energy Reorganization Act of 1974, and regulations, orders, and licenses thereunder. The regulations in this part also establish the rights and responsibilities of the Commission and individuals during interviews compelled by subpoena as part of the agency's inspections or investigations under section 161c of the Atomic Energy Act of 1954, as amended, on any matter within the Commission's jurisdiction.

Dated: March 8, 2024.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2024–05320 Filed 3–12–24; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2023–30]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 15, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s)

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2023–30; *Filing Title:* USPS Notice of Amendment to Priority Mail & First-Class Package Service Contract 224, Filed Under Seal; *Filing Acceptance Date:* March 7, 2024; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* March 15, 2024.

This Notice will be published in the **Federal Register**.

Mallory S. Richards,

Federal Register Liaison.

[FR Doc. 2024–05288 Filed 3–12–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99690; File No. SR–NYSEAMER–2024–14]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Establish the NYSE American Aggregated Lite Market Data Feed

March 7, 2024.

Pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 27, 2024, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish the NYSE American Aggregated Lite (''NYSE American Agg Lite'') market data feed. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish the NYSE American Agg Lite market data feed. The NYSE American Agg Lite is a NYSE American-only frequency-based depth of book market data feed of the NYSE American's limit order book for up to ten (10) price levels on both the bid and offer sides of the order book for securities traded on the Exchange and for which the Exchange reports quotes and trades under the Consolidated Tape Association (''CTA'') Plan or the Nasdaq/UTP Plan. NYSE American Agg Lite would be a compilation of limit order data that the Exchange would provide to vendors and subscribers. As proposed, the NYSE American Agg Lite data feed would be updated no less frequently than once per second. The NYSE American Agg Lite would include depth of book order data as well as security status messages. The security status message would inform subscribers of changes in the status of a specific security, such as trading halts, short sale restriction, etc. In addition, the NYSE American Agg Lite would also include order imbalance information prior to the opening and closing of trading.

The Exchange proposes to offer NYSE American Agg Lite after receiving requests from vendors and subscribers that would like to receive the data described above in an integrated fashion at a pre-defined publication interval, in this case updates no less than once per second. An aggregated data feed may provide greater efficiencies and reduce errors for vendors and subscribers that currently choose to integrate the above data into a single offering after receiving it from the Exchange through existing products and adjust the publication frequency based on a subscriber's needs. The Exchange believes that providing vendors and subscribers with the option to subscribe to a market data product that integrates a subset of data from existing products and where such aggregated data is published at a pre-defined interval, thus lowering bandwidth, infrastructure and operational requirements, would allow vendors and subscribers to choose the best solution for their specific business needs. The Exchange notes that publishing only the top ten price levels on both the bid and offer sides of the order book where such data is communicated to subscribers at a pre-defined interval would reduce the overall volume of messages required to be consumed by subscribers when compared to a full order-by-order data feed or a full depth of book data feed. Providing data in this format and publication frequency would make NYSE American Agg Lite more easily consumable by vendors and subscribers, especially for display purposes.

The Exchange proposes to offer NYSE American Agg Lite through the Exchange's Liquidity Center Network (''LCN''), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange would also offer NYSE American Agg Lite through the ICE Global Network (''IGN''), through which all other users and members access the Exchange's trading and execution systems and other proprietary market data products.

The Exchange will file a separate rule filing to establish fees for NYSE American Agg Lite. The Exchange will announce the implementation date of this proposed rule change by Trader Update, which, subject to the effectiveness of this proposed rule change, will be no later than the second quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) [4] of the Act (''Act''), in general, and furthers the objectives of

[4] 15 U.S.C. 78f(b).

section 6(b)(5)[5] of the Act, 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, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of NYSE American Agg Lite to those interested in receiving it.

The Exchange also believes this proposal is consistent with section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market data vendors and subscribers. The proposed rule change would benefit investors by facilitating their prompt access to the frequency-based depth of book contained in the NYSE American Agg Lite market data feed.

The Exchange also believes that the proposed rule change is consistent with section 11(A) of the Act[6] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability of information with respect to quotations for and transactions in securities to brokers, dealers, and investors. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,[7] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. The NYSE American Agg Lite market data feed would be accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data vendors are required by any rule or regulation to make this data available. Accordingly, vendors and subscribers can discontinue their use at any time and for any reason.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that NYSE American Agg Lite is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS would itself further the Act's goals of facilitating efficiency and competition:

> Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[8]

In addition, NYSE American Agg Lite removes impediments to and perfects the mechanism of a free and open market and a national market system by providing investors with alternative market data and would compete with similar market data products currently offered by the four U.S. equities exchanges operated by Cboe Exchange, Inc.—Cboe BZX Exchange, Inc. (''BZX''), Cboe BYX Exchange, Inc. (''BYX''), Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe EDGX Exchange, Inc. (''EDGX''), each of which offers a market data product called BZX Summary Depth, BYX Summary Depth, EDGA Summary Depth and EDGX Summary Depth, respectively (collectively, the ''Cboe Summary Depth'').[9] Similar to Cboe Summary Depth, NYSE American Agg Lite can be utilized by vendors and subscribers to quickly access and distribute aggregated order book data. As noted above, NYSE American Agg Lite, similar to Cboe Summary Depth, would provide aggregated depth per security, including the bid, ask and share quantity for orders received by NYSE American, except unlike Cboe Summary Depth, which provides aggregated depth per security for up to five price levels, NYSE American Agg Lite would provide aggregated depth per security for up to ten price levels on both the bid and offer sides of the NYSE American limit order book. The proposed market data product is also similar to the NYSE American Integrated Feed,[10] and Nasdaq TotalView.[11]

The Exchange notes that the existence of alternatives to the Exchange's proposed product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, as well as the continued availability of the Exchange's separate data feeds, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives as their individual business cases warrant.

The NYSE American Agg Lite market data feed will help to protect a free and open market by providing additional data to the marketplace and by giving investors greater choices. In addition, the proposal would not permit unfair discrimination because the data feed would be available to all vendors and subscribers through both the LCN and IGN.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[12] 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. Because other exchanges already offer similar products, the Exchange's proposed NYSE American Agg Lite will enhance competition. The NYSE American Agg Lite will foster

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78k–1.

[7] *See* 17 CFR 242.603.

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (Regulation NMS Adopting Release).

[9] *See* BZX Rule 11.22(m) BZX Summary Depth; BYX Rule 11.22(k) BYX Summary Depth; EDGA Rule 13.8(f) EDGA Summary Depth; and EDGX Rule 13.8(f) EDGX Summary Depth. The Cboe Summary Depth offered by BZX, BYX, EDGA and EDGX are each a data feed that offers aggregated two-sided quotations for all displayed orders for up to five (5) price levels and contains the individual last sale information, market status, trading status and trade break messages.

[10] The NYSE American Integrated Feed provides a real-time market data in a unified view of events, in sequence, as they appear on the NYSE American matching engine. The NYSE American Integrated Feed includes depth of book order data, last sale data, and opening and closing imbalance data, as well as security status updates (*e.g.,* trade corrections and trading halts) and stock summary messages. *See also* Securities Exchange Act Release No. 74127 (January 23, 2015), 80 FR 4956 (January 29, 2015) (SR–NYSEMKT–2015–06) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing the NYSE American Integrated Feed Data Feed).

[11] Nasdaq TotalView displays the full order book depth on Nasdaq, including every single quote and order at every price level in Nasdaq-, NYSE-, NYSE American- and regional-listed securities on Nasdaq. *See https://www.nasdaq.com/solutions/nasdaq-totalview?_bt=659478569450&_bk=totalview&_bm=b&_bn=g&_bg=1446168280508utm_term=totalview&utm_campaign=&utm_source=google&utm_medium=ppc&gclid=EAIaIQobChMIsZqiorTS_wIV2Y5bCh2xxQdUEAAYASAAEgKlyfD_BwE.*

[12] 15 U.S.C. 78f(b)(8).

competition by providing an alternative to similar products offered by other exchanges, including the Cboe Summary Depth.[13] The NYSE American Agg Lite market data feed would provide investors with a new option for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[14] Thus, the Exchange believes the proposed rule change is necessary to permit fair competition among national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2024–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEAMER–2024–14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEAMER–2024–14 and should be submitted on or before April 3, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–05254 Filed 3–12–24; 8:45 am]

BILLING CODE 8011–01–P

[13] *See supra,* note 9.

[14] *See supra,* note 8, at 37503.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99686; File No. SR–CboeBZX–2024–018]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the Franklin Ethereum ETF, a Series of the Franklin Ethereum Trust, Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

March 7, 2024.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 22, 2024, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change to list and trade shares of the Franklin Ethereum ETF (the ''Fund''), a series of the Franklin Ethereum Trust (the ''Trust''),[3] under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Trust was formed as a Delaware statutory trust on February 8, 2024. The Fund is operated as a grantor trust for U.S. federal tax purposes. The Trust and the Fund have no fixed termination date.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(e)(4),[4] which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.[5] Franklin Holdings, LLC is the sponsor of the Fund (''Sponsor''). The Shares will be registered with the Commission by means of the Trust's registration statement on Form S–1 (the ''Registration Statement'').[6]

The Commission has historically approved or disapproved exchange filings to list and trade series of Trust Issued Receipts, including spot-based Commodity-Based Trust Shares, on the basis of whether the listing exchange has in place a comprehensive surveillance sharing agreement with a regulated market of significant size related to the underlying commodity to be held.[7] With this in mind, the CME Ether Futures market, which launched in February 2021, is the proper market to consider in determining whether there is a related regulated market of significant size.

Recently, the Commission issued an order granting approval for proposals to list bitcoin-based commodity trust and bitcoin-based trust issued receipts (these funds are nearly identical to the Fund, but hold bitcoin instead of ethereum) (''Spot Bitcoin ETPs'').[8] By way of background, in 2022 the Commission disapproved proposals[9] to list Spot Bitcoin ETPs, including the Grayscale Order.[10] Grayscale appealed the decision with the U.S. Court of Appeals for the D.C. Circuit, which held that the Commission had failed to adequately explain its reasoning that the proposing exchange had not established that the CME bitcoin futures market was a market of significant size related to spot bitcoin, or that the ''other means'' asserted were sufficient to satisfy the statutory standard. As a result, the court vacated the Grayscale Order and remanded the matter to the Commission.[11] In considering the remand of the Grayscale Order and Spot Bitcoin ETPs, the Commission determined in the Spot Bitcoin ETP Approval Order that the CME Bitcoin Futures market is a regulated market of significant size. Specifically, the Commission stated:

> [B]ased on the record before the Commission and the improved quality of the correlation analysis in the record . . . the Commission is able to conclude that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME's surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges' comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market whose bitcoin futures market is consistently highly correlated to spot bitcoin, albeit not of ''significant size'' related to spot bitcoin—can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [p]roposals.[12]

As further discussed below, both the Exchange and the Sponsor believe that this proposal and the included analysis are sufficient to establish that the CME Ether Futures market represents a regulated market of significant size and that this proposal should be approved.

Background

Ethereum (also referred to as ''ETH'' or ''ether'') is free software that is hosted on computers distributed throughout the globe. It employs an array of logic, called a protocol, to create a unified understanding of ownership, commercial activity, and business logic. This allows users to engage in commerce without the need to trust any of its participants or counterparties. Ethereum code creates verifiable and unambiguous rules that assign clear, strong property rights to create a platform for unrestrained business formation and free exchange. It is widely understood that no single intermediary or entity operates or controls the Ethereum network (referred to as ''decentralization''), the transaction

[4] The Commission approved BZX Rule 14.11(e)(4) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[5] Any of the statements or representations regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, or the applicability of Exchange listing rules specified in this filing to list a series of Other Securities (collectively, ''Continued Listing Representations'') shall constitute continued listing requirements for the Shares listed on the Exchange.

[6] On February 12, 2024, the Trust filed with the Commission the Registration Statement on Form S–1, submitted to the Commission by the Sponsor on behalf of the Trust (333–277008). The descriptions of the Trust, the Shares, and the Index (as defined below) contained herein are based, in part, on information in the Registration Statement. The Registration Statement is not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

[7] *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018). This proposal was subsequently disapproved by the Commission. *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the ''Winklevoss Order''). Prior orders from the Commission have pointed out that in every prior approval order for Commodity-Based Trust Shares, there has been a derivatives market that represents the regulated market of significant size, generally a Commodity Futures Trading Commission (the ''CFTC'') regulated futures market. Further to this point, the Commission's prior orders have noted that the spot commodities and currency markets for which it has previously approved spot ETPs are generally unregulated and that the Commission relied on the underlying futures market as the regulated market of significant size that formed the basis for approving the series of Currency and Commodity-Based Trust Shares, including gold, silver, platinum, palladium, copper, and other commodities and currencies. The Commission specifically noted in the Winklevoss Order that the approval order issued related to the first spot gold ETP ''was based on an assumption that the currency market and the spot gold market were largely unregulated.'' *See* Winklevoss Order at 37592. As such, the regulated market of significant size test does not require that the spot bitcoin market be regulated in order for the Commission to approve this proposal, and precedent makes clear that an underlying market for a spot commodity or currency being a regulated market would actually be an exception to the norm. These largely unregulated currency and commodity markets do not provide the same protections as the markets that are subject to the Commission's oversight, but the Commission has consistently looked to surveillance sharing agreements with the underlying futures market in order to determine whether such products were consistent with the Act.

[8] *See* Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units) (the ''Spot Bitcoin ETP Approval Order'').

[9] *See* Order Disapproving a Proposed Rule Change To List and Trade Shares of the VanEck Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, Securities Exchange Act Release No. 97102 (Mar. 10, 2023), 88 FR 16055 (Mar. 15, 2023) (SR–CboeBZX–2022–035) (''VanEck Order II'') and n.11 therein for the complete list of previous proposals.

[10] *See* Securities Exchange Act Release No. 95180 (June 29, 2022) 87 FR 40299 (July 6, 2022) (SR–NYSEArca–2021–90) (Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Shares of Grayscale Bitcoin Trust Under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) (the ''Grayscale Order'').

[11] *See Grayscale Investments, LLC* v. *SEC,* 82 F.4th 1239 (D.C. Cir. 2023).

[12] *See* the Spot Bitcoin ETP Approval Order at 3011–3012.

validation and recordkeeping infrastructure of which is collectively maintained by a disparate user base. The Ethereum network allows people to exchange tokens of value, or ETH, which are recorded on a distributed public recordkeeping system or ledger known as a blockchain (the ''Ethereum Blockchain''), and which can be used to pay for goods and services, including computational power on the Ethereum network, or converted to fiat currencies, such as the U.S. dollar, at rates determined on digital asset exchanges or in individual peer-to-peer transactions. Furthermore, by combining the recordkeeping system of the Ethereum Blockchain with a flexible scripting language that is programmable and can be used to implement sophisticated logic and execute a wide variety of instructions, the Ethereum network is intended to act as a foundational infrastructure layer on top of which users can build their own custom software programs, as an alternative to centralized web servers. In theory, anyone can build their own custom software programs on the Ethereum network. In this way, the Ethereum network represents a project to expand blockchain deployment beyond a limited-purpose, peer-to-peer private money system into a flexible, distributed alternative computing infrastructure that is available to all. On the Ethereum network, ETH is the unit of account that users pay for the computational resources consumed by running their programs.

Heretofore, U.S. retail investors have lacked a U.S. regulated, U.S. exchange-traded vehicle to gain exposure to ETH. Instead, current options include: (i) facing the counter-party risk, legal uncertainty, technical risk, and complexity associated with accessing spot ether; or (ii) over-the-counter ether funds (''OTC ETH Funds'') with high management fees and potentially volatile premiums and discounts. Meanwhile, investors in other countries, including Germany, Switzerland and France, are able to use more traditional exchange listed and traded products (including exchange-traded funds holding physical ETH) to gain exposure to ETH. Investors across Europe have access to products which trade on regulated exchanges and provide exposure to a broad array of spot crypto assets. U.S. investors, by contrast, are left with fewer and more risky means of getting ether exposure.[13]

To this point, the lack of an ETP that holds spot ETH (a ''Spot Ether ETP'') exposes U.S. investor assets to significant risk because investors that would otherwise seek cryptoasset exposure through a Spot Ether ETP are forced to find alternative exposure through generally riskier means. For example, investors in OTC ETH Funds are not afforded the benefits and protections of regulated Spot Ether ETPs, resulting in retail investors suffering losses due to drastic movements in the premium/discount of OTC ETH Funds. An investor who purchased the largest OTC ETH Fund in January 2021 and held the position at the end of 2022 would have suffered a 69% loss due to the premium/discount, even if the price of ETH did not change. Many retail investors likely suffered losses due to this premium/discount in OTC ETH Fund trading; all such losses could have been avoided if a Spot Ether ETP had been available. Additionally, many U.S. investors that held their digital assets in accounts at FTX,[14] Celsius Network LLC,[15] BlockFi Inc.[16] and Voyager Digital Holdings, Inc.[17] have become unsecured creditors in the insolvencies of those entities. If a Spot Ether ETP was available, it is likely that at least a portion of the billions of dollars tied up in those proceedings would still reside in the brokerage accounts of U.S. investors, having instead been invested in a transparent, regulated, and well-understood structure—a Spot Ether ETP. To this point, approval of a Spot Ether ETP would represent a major win for the protection of U.S. investors in the cryptoasset space. The Fund, like all other series of Commodity-Based Trust Shares, is designed to protect investors against the risk of losses through fraud and insolvency that arise by holding digital assets, including ETH, on centralized platforms.

Ether Futures ETFs

The Exchange and Sponsor applaud the Commission for allowing the launch of ETFs registered under the Investment Company Act of 1940, as amended (the ''1940 Act''), that provide exposure to ether primarily through CME Ether Futures (''Ether Futures ETFs''). Allowing such products to list and trade is a productive first step in providing U.S. investors and traders with transparent, exchange-listed tools for expressing a view on ether.

The structure of Ether Futures ETFs provides negative outcomes for buy and hold investors as compared to a Spot Ether ETP. Specifically, the cost of rolling CME Ether Futures contracts will cause the Ether Futures ETFs to lag the performance of ether itself and, at over a billion dollars in assets under management, would cost U.S. investors significant amounts of money on an annual basis compared to Spot Ether ETPs. Such rolling costs would not be required for Spot Ether ETPs that hold ether. Further, Ether Futures ETFs could potentially hit CME position limits, which would force an Ether Futures ETF to invest in non-futures assets for ether exposure and cause potential investor confusion and lack of certainty about what such Ether Futures ETFs are actually holding to try to get exposure to ether, not to mention completely changing the risk profile associated with such an ETF. While Ether Futures ETFs represent a useful trading tool, they are clearly a sub-optimal structure for U.S. investors that are looking for long-term exposure to ether that will unnecessarily cost U.S. investors significant amounts of money every year compared to Spot Ether ETPs and the Exchange believes that any proposal to list and trade a Spot Ether ETP should be reviewed by the Commission with this important investor protection context in mind.

To the extent the Commission may view differential treatment of Ether Futures ETFs and Spot Ether ETPs as warranted based on the Commission's concerns about the custody of physical ether that a Spot Ether ETP would hold (compared to cash-settled futures contracts),[18] the Sponsor believes this concern is mitigated to a significant degree by the custodial arrangements that the Fund has contracted with the Custodian to provide, as further outlined below. In the custody statement, the Commission stated that the fourth step that a broker-dealer could take to shield traditional securities customers and others from the risks and consequences of digital asset security fraud, theft, or loss is to establish, maintain, and enforce reasonably designed written policies, procedures, and controls for safekeeping

[13] The Exchange notes that the list of countries above is not exhaustive and that securities regulators in a number of additional countries have either approved or otherwise allowed the listing and trading of Spot Ether ETPs.

[14] *See* FTX Trading Ltd., et al., Case No. 22–11068.

[15] *See* Celsius Network LLC, et al., Case No. 22–10964.

[16] *See* BlockFi Inc., Case No. 22–19361.

[17] *See* Voyager Digital Holdings, Inc., et al., Case No. 22–10943.

[18] See, *e.g.,* Division of Investment Management Staff, Staff Statement on Funds Registered Under the Investment Company Act Investing in the Bitcoin Futures Market, May 11, 2021 (''The Bitcoin Futures market also has not presented the custody challenges associated with some cryptocurrency-based investing because the futures are cash-settled'').

and demonstrating the broker-dealer has exclusive possession or control over digital asset securities that are consistent with industry best practices to protect against the theft, loss, and unauthorized and accidental use of the private keys necessary to access and transfer the digital asset securities the broker-dealer holds in custody. While ether is not a security and the Custodian is not a broker-dealer, the Sponsor believes that similar considerations apply to the Custodian's holding of the Fund's ether. After diligent investigation, the Sponsor believes that the Custodian's policies, procedures, and controls for safekeeping, exclusively possessing, and controlling the Fund's ether holdings are consistent with industry best practices to protect against the theft, loss, and unauthorized and accidental use of the private keys. As a trust company chartered by the NYDFS, the Sponsor notes that the Custodian is subject to extensive regulation and has among longest track records in the industry of providing custodial services for digital asset private keys. Under the circumstances, therefore, to the extent the Commission believes that its concerns about the risks of spot ether custody justifies differential treatment of a Ether Futures ETF versus a Spot Ether ETP, the Sponsor believes that the fact that the Custodian employs the same types of policies, procedures, and safeguards in handling spot ether that the Commission has stated that broker-dealers should implement with respect to digital asset securities would appear to weaken the justification for treating a Ether Futures ETF compared to a Spot Ether ETP differently due to spot ether custody concerns.

Based on the foregoing, the Exchange and Sponsor believe that any objective review of the proposals to list Spot Ether ETPs compared to the Ether Futures ETFs would lead to the conclusion that Spot Ether ETPs should be available to U.S. investors and, as such, this proposal and other comparable proposals to list and trade Spot Ether ETPs should be approved by the Commission. Stated simply, U.S. investors will continue to lose significant amounts of money from holding Ether Futures ETFs as compared to Spot Ether ETPs, losses which could be prevented by the Commission approving Spot Ether ETPs. Additionally, any concerns related to preventing fraudulent and manipulative acts and practices related to Spot Ether ETPs would apply equally to the spot markets underlying the futures contracts held by an Ether Futures ETF. Both the Exchange and Sponsor believe that the CME Ether Futures market is a regulated market of significant size and that such manipulation concerns are mitigated, as described extensively below. After allowing the listing and trading of Ether Futures ETFs that hold primarily CME Ether Futures, however, the only consistent outcome would be approving Spot Ether ETPs on the basis that the CME Ether Futures market is a regulated market of significant size.

Given the current landscape, approving this proposal (and others like it) and allowing Spot Ether ETPs to be listed and traded alongside Ether Futures ETFs and Spot Bitcoin ETPs would establish a consistent regulatory approach, provide U.S. investors with choice in product structures for ether exposure, and offer flexibility in the means of gaining exposure to ether through transparent, regulated, U.S. exchange-listed vehicles.

CME Ether Futures [19]

CME began offering trading in Ether Futures in February 2021. Each contract represents 50 ETH and is based on the CME CF Ether-Dollar Reference Rate.[20] The contracts trade and settle like other cash-settled commodity futures contracts. Most measurable metrics related to CME Ether Futures have generally trended up since launch, although some metrics have slowed recently. For example, there were 76,293 CME Ether Futures contracts traded in July 2023 (approximately $7.3 billion) compared to 70,305 ($11.1 billion) and 158,409 ($7.5 billion) contracts traded in July 2021, and July 2022 respectively.[21] The Sponsor's research indicates daily correlation between the spot ETH and the CME Ether Futures is 0.998 from the period of 9/1/22 through 9/1/23.

The number of large open interest holders [22] and unique accounts trading CME Ether Futures have both increased, even in the face of heightened ether price volatility.

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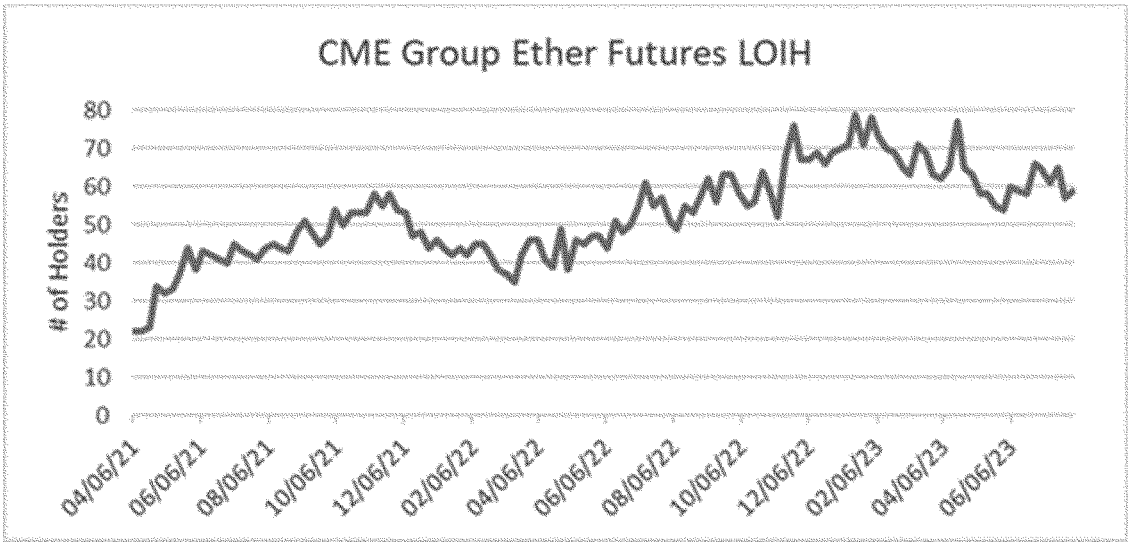
[19] Unless otherwise noted, all data and analysis presented in this section and referenced elsewhere in the filing has been provided by the Sponsor.

[20] The CME CF Ether-Dollar Reference Rate is based on a publicly available calculation methodology based on pricing sourced from several crypto trading platforms, including Bitstamp, Coinbase, Gemini, itBit, Kraken, and LMAX Digital.

[21] Source: CME, 7/31/23.

[22] A large open interest holder in CME Ether Futures is an entity that holds at least 25 contracts, which is the equivalent of 1,250 ether. At a price of approximately $1,867 per ether on 7/31/2023, more than 59 firms had outstanding positions of greater than $2.3 million in CME Ether Futures.


CME Group Ether Futures LOIH
# of Holders
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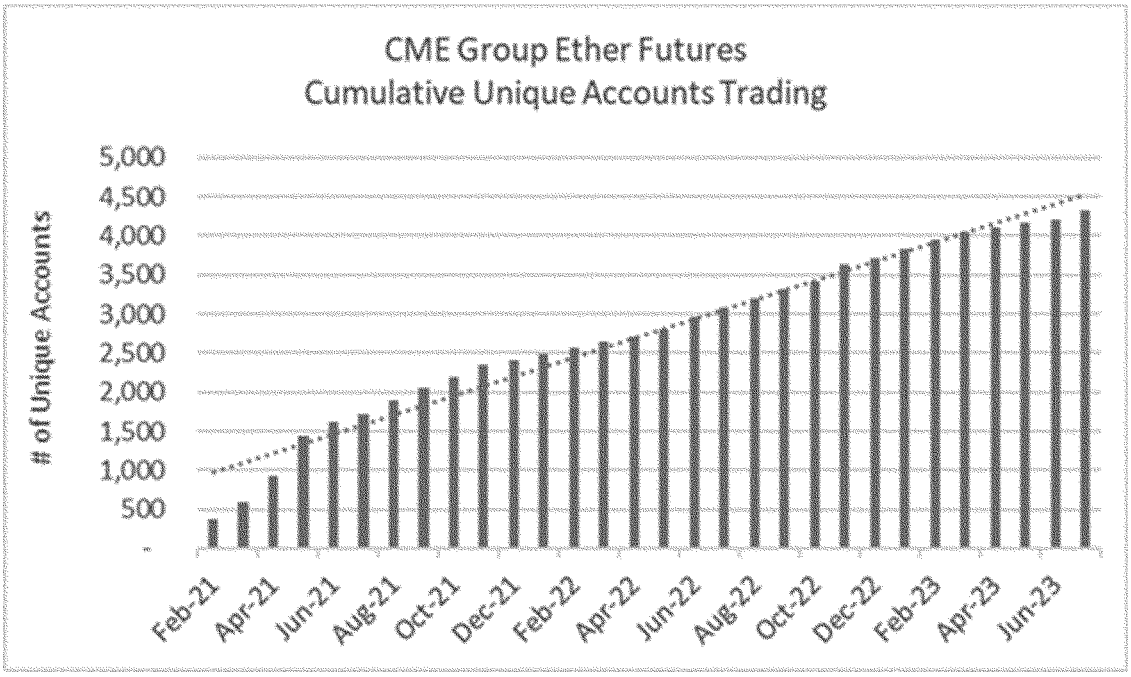
CME Group Ether Futures
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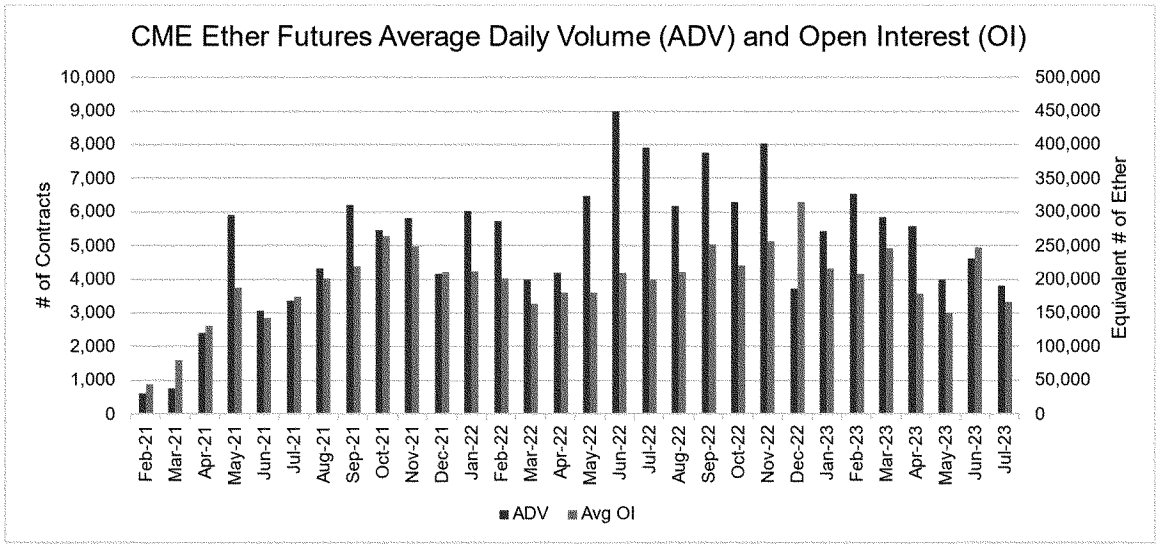

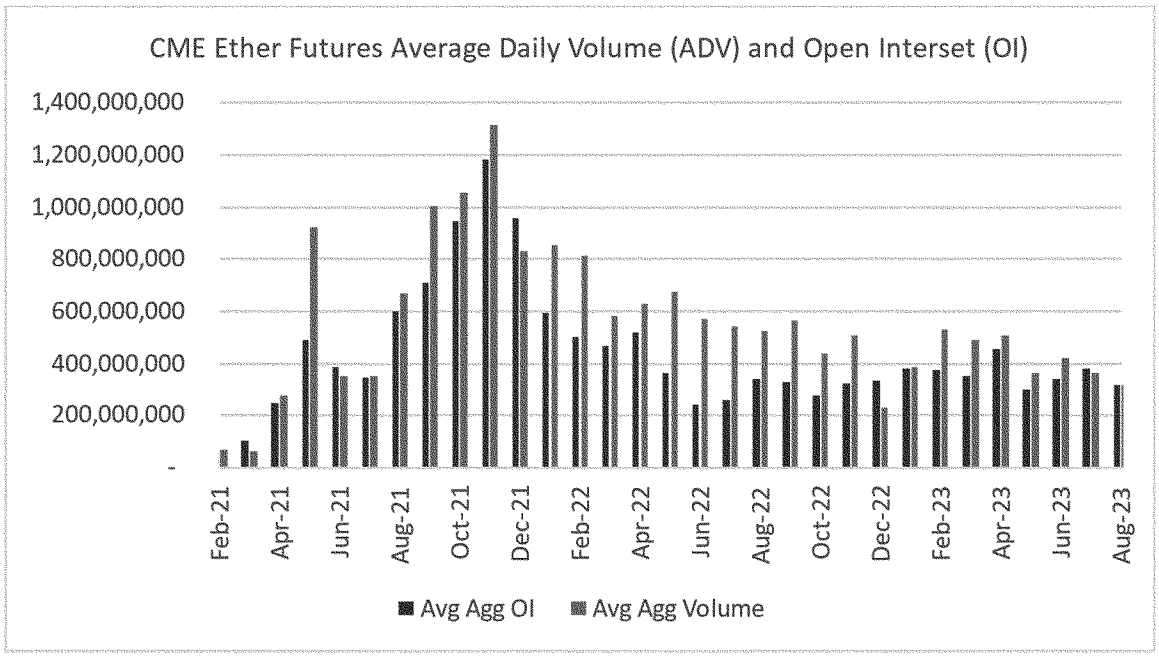

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Section 6(b)(5) and the Applicable Standards

The Commission has approved numerous series of Trust Issued Receipts,[23] including Commodity-Based Trust Shares,[24] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; [25] and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of section 6(b)(5) of the Act and that this filing sufficiently

[23] *See* Exchange Rule 14.11(f).

[24] Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

[25] The Exchange believes that ETH is resistant to price manipulation and that ''other means to prevent fraudulent and manipulative acts and practices'' exist to justify dispensing with the requisite surveillance sharing agreement. The geographically diverse and continuous nature of ETH trading render it difficult and prohibitively costly to manipulate the price of ETH. The fragmentation across ETH platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of ETH prices through continuous trading activity challenging. To the extent that there are ETH exchanges engaged in or allowing wash trading or other activity intended to manipulate the price of ETH on other markets, such pricing does not normally impact prices on other exchange because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between the ETH markets and the presence of arbitrageurs in those markets means that the manipulation of the price of ETH price on any single venue would require manipulation of the global ETH price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular ETH or OTC trading platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

demonstrates that the CME Ether Futures market represents a regulated market of significant size and that, on the whole, the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by quantifiable investor protection issues that would be resolved by approving this proposal.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

In order to meet this standard in a proposal to list and trade a series of Commodity-Based Trust Shares, the Commission requires that an exchange demonstrate that there is a comprehensive surveillance-sharing agreement in place [26] with a regulated market of significant size. Both the Exchange and CME are members of the Intermarket Surveillance Group (''ISG'').[27] The only remaining issue to be addressed is whether the Ether Futures market constitutes a market of significant size, which both the Exchange and the Sponsor believe that it does. The terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which: (a) there is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct; and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[28]

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying section 6(b)(5) of the Act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[29] [30]

(a) Manipulation of the ETP

The significant market test requires that there is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct. In light of the similarly high correlation between spot ETH/CME Ether Futures and spot bitcoin/CME Bitcoin Futures, applying the same rationale that the Commission applied to a Spot Bitcoin ETP in the Spot Bitcoin ETP Approval Order [31] also indicates that this test is satisfied for this proposal. As noted above, in the Spot Bitcoin ETP Approval Order, the SEC concluded that:

> . . . fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME's surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges' comprehensive surveillance-sharing agreement with the CME . . . can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [p]roposals.[32]

The assumptions from this statement are also true for CME Ether Futures. CME Ether Futures pricing is based on pricing from spot ether markets. The statement from the Spot Bitcoin ETP Approval Order that the surveillance-sharing agreement with the CME ''can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [p]roposals'' makes clear that the Commission believes that CME's surveillance can capture the effects of trading on the relevant spot markets on the pricing of CME Bitcoin Futures. This same logic would extend to CME Ether Futures markets where CME's surveillance would be able to capture the effects of trading on the relevant spot markets on the pricing of CME Ether Futures.

(b) Predominant Influence on Prices in Spot and ETH Futures

The Exchange and Sponsor also believe that trading in the Shares would not be the predominant force on prices in the CME Ether Futures market for a number of reasons. First, because the Fund would not hold CME Ether Futures contracts, the only way that it could be the predominant force on prices in that market is through the spot markets that CME Ether Futures contracts use for pricing.[33] The Sponsor notes that ether total 24-hour spot trading volume has averaged $9.4 billion over the year ending September 1, 2023.[34] The Sponsor expects that the Fund would represent a very small percentage of this daily trading volume in the spot ether market even in its most aggressive projections for the Fund's assets and, thus, the Fund would not have an impact on the spot market and therefore could not be the predominant force on prices in the CME Ether Futures market. Second, much like the CME Bitcoin Futures market, the CME Ether Futures market has progressed and matured significantly. As the court found in the Grayscale Order, ''Because the spot market is deeper and more liquid than the futures market, manipulation should be more difficult, not less.'' The Exchange and sponsor agree with this sentiment and believe it applies equally to the spot ether and CME Ether Futures markets.

(c) Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite

[26] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since ''they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance-sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing it to, the other party.'' The Commission has historically held that joint membership in the ISG constitutes such a surveillance sharing agreement. *See* Securities Exchange Act Release No. 88284 (February 26, 2020), 85 FR 12595 (March 3, 2020) (SR–NYSEArca–2019–39) (the ''Wilshire Phoenix Disapproval'').

[27] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[28] *See* Wilshire Phoenix Disapproval.

[29] *See* Winklevoss Order at 37580. The Commission has also specifically noted that it ''is not applying a 'cannot be manipulated' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met.'' *Id.* at 37582.

[30] The Commission allowed the launch of ETFs registered under the 1940 Act that provide exposure to ETH through CME Ether Futures (''ETH Futures ETFs'') in October 2023.

[31] *See* the Spot Bitcoin ETP Approval Order.

[32] *See* the Spot Bitcoin ETP Approval Order at 3011–3012.

[33] This logic is reflected by the court in the Grayscale Order at 17–18. Specifically, the court found that ''Because Grayscale owns no futures contracts, trading in Grayscale can affect the futures market only through the spot market . . . But Grayscale holds just 3.4 percent of outstanding bitcoin, and the Commission did not suggest Grayscale can dominate the price of bitcoin.''

[34] Source: TokenTerminal.

surveillance-sharing agreement. The Exchange and Sponsor believe that such conditions are present.

The Exchange believes that the proposal is designed to protect investors and the public interest. Over the past several years, U.S. investor exposure to ether through OTC ETH Funds has grown into the tens of billions of dollars and more than a billion dollars of exposure through Ether Futures ETFs. With that growth, so too has grown the quantifiable investor protection issues to U.S. investors through roll costs for Ether Futures ETFs and premium/discount volatility and management fees for OTC ETH Funds. The Exchange believes that the concerns related to the prevention of fraudulent and manipulative acts and practices have been sufficiently addressed to be consistent with the Act and, to the extent that the Commission disagrees with that assertion, also believes that such concerns are now outweighed by these investor protection concerns. As such, the Exchange believes that approving this proposal (and comparable proposals) provides the Commission with the opportunity to allow U.S. investors with access to ether in a regulated and transparent exchange-traded vehicle that would act to limit risk to U.S. investors by: (i) reducing premium and discount volatility; (ii) reducing management fees through meaningful competition; (iii) reducing risks and costs associated with investing in Ether Futures ETFs and operating companies that are imperfect proxies for ether exposure; and (iv) providing an alternative to custodying spot ether.

Franklin Ethereum ETF

Delaware Trust Company is the trustee (''Trustee''). Bank of New York Mellon is the custodian for the Fund's cash and cash equivalents [35] (the ''Cash Custodian'') and also serves as the Fund's administrator and transfer agent (the ''Administrator'' or ''Transfer Agent''). Coinbase Trust Company, LLC (the ''Custodian'') will be responsible for custody of the Fund's ether.

According to the Registration Statement, each Share will represent a fractional undivided beneficial interest in the Fund's net assets. The Fund's assets will only consist of ether, cash, and cash equivalents.

According to the Registration Statement, the Trust is neither an investment company registered under the 1940 Act,[36] nor a commodity pool for purposes of the Commodity Exchange Act (''CEA''), and neither the Trust, the Fund nor the Sponsor is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the Shares.

According to the Registration Statement, the Sponsor may, from time to time, stake a portion of the Fund's assets through one or more trusted staking providers, which may include an affiliate of the Sponsor (''Staking Providers''). In consideration for any staking activity in which the Fund may engage, the Fund would receive certain staking rewards of ether tokens, which may be treated as income to the Fund.

When the Fund sells or redeems its Shares, it will do so in cash transactions in large blocks of 50,000 Shares (a ''Creation Basket'') at the Fund's net asset value (''NAV''). A third party will use cash to buy and deliver ether to create Shares or withdraw and sell ether for cash to redeem Shares, on behalf of the Fund. For creations, authorized participants will deliver, or facilitate the delivery of, cash to the Fund's account with the Cash Custodian in exchange for Shares. Upon receipt of an approved creation order, the Sponsor, on behalf of the Fund, will submit an order to buy the amount of ether represented by a Creation Basket. Based off ether executions, the Cash Custodian will request the required cash from the authorized participant. Following receipt by the Cash Custodian of the cash from an authorized participant, the Sponsor, on behalf of the Fund, will approve an order with one or more previously onboarded trading partners to purchase the amount of ether represented by the Creation Basket.[37] Authorized participants may then offer Shares to the public at prices that depend on various factors, including the supply and demand for Shares, the value of the Fund's assets, and market conditions at the time of a transaction. Shareholders who buy or sell Shares during the day from their broker may do so at a premium or discount relative to the NAV of the Shares of the Fund.

Investment Objective

According to the Registration Statement and as further described below, the investment objective of the Fund is to generally reflect the performance of the price of ether before payment of the Fund's expenses and liabilities. In seeking to achieve its investment objective, the Fund will hold only ether, cash, and cash equivalents. The Fund will value its Shares daily based on the value of ether as reflected by the CME CF Ether-Dollar Reference Rate—New York Variant (the ''Index''), which is an independently calculated value based on an aggregation of executed trade flow of major ether spot trading platforms. Specifically, the Index is calculated based on certain transactions of all of its constituent ether trading platforms, which are currently Bitstamp, Coinbase, itBit, Kraken, Gemini, and LMAX Digital, and which may change from time to time. If the Index is not available or the Sponsor determines, in its sole discretion, that the Index should not be used, the Fund's holdings may be fair valued in accordance with the policy approved by the Sponsor.[38]

The Index

As described in the Registration Statement, the Fund will value its Shares daily based on the value of ether as reflected by the Index. The Index is calculated daily and aggregates the notional value of ether trading activity across major ether spot trading platforms. The Index is designed based on the International Organization of Securities Commissions (''IOSCO'') Principals for Financial Indexes. The administrator of the Index is CF Benchmarks Ltd. (the ''Index Provider'').

The Index serves as a once-a-day benchmark rate of the U.S. dollar price of ether (USD/ETH), calculated as of 4:00 p.m. ET. The Index aggregates the trade flow of several ether trading platforms, during an observation window between 3:00 p.m. and 4:00 p.m. ET into the U.S. dollar price of one ether at 4:00 p.m. ET. Specifically, the Index is calculated based on the ''Relevant Transactions'' (as defined below) of all of its constituent ether trading platforms, which are currently Coinbase, Bitstamp, Kraken, itBit, LMAX Digital and Gemini (the ''Constituent Platforms''), as follows:

- All Relevant Transactions are added to a joint list, recording the time of execution, trade price and size for each transaction.
- The list is partitioned by timestamp into 12 equally-sized time intervals of 5 (five) minute length.
- For each partition separately, the volume-weighted median trade price is calculated from the trade prices and

[35] Cash equivalents are short-term instruments with maturities of less than 3 months.

[36] 15 U.S.C. 80a–1.

[37] For redemptions, the process will occur in the reverse order. Upon receipt of an approved redemption order, the Sponsor, on behalf of the Fund, will submit an order to sell the amount of ether represented by a Creation Basket and the cash proceeds will be remitted to the authorized participant when the large block of Shares is received by the Transfer Agent.

[38] Any alternative method will only be employed on an ad hoc basis. Any permanent change to the calculation of the NAV would require a proposed rule change under Rule 19b–4.

sizes of all Relevant Transactions, *i.e.,* across all Constituent Platforms. A volume-weighted median differs from a standard median in that a weighting factor, in this case trade size, is factored into the calculation.

- The Index is then determined by the equally-weighted average of the volume medians of all partitions.

The Index does not include any futures prices in its methodology. A ''Relevant Transaction'' is any cryptocurrency versus U.S. dollar spot trade that occurs during the observation window between 3:00 p.m. and 4:00 p.m. ET on a Constituent Platform in the ETH/USD pair that is reported and disseminated by a Constituent Platform through its publicly available Application Programming Interface (''API'') and observed by the Index Provider.

The Sponsor believes that the use of the Index is reflective of a reasonable valuation of the average spot price of ether and that resistance to manipulation is a priority aim of its design methodology. The methodology: (i) takes an observation period and divides it into equal partitions of time; (ii) then calculates the volume-weighted median of all transactions within each partition; and (iii) the value is determined from the arithmetic mean of the volume-weighted medians, equally weighted. By employing the foregoing steps, the Index thereby seeks to ensure that transactions in ether conducted at outlying prices do not have an undue effect on the value of the Index, large trades or clusters of trades transacted over a short period of time will not have an undue influence on the Index value, and the effect of large trades at prices that deviate from the prevailing price are mitigated from having an undue influence on the Index value.

In addition, the Sponsor notes that an oversight function is implemented by the Index Provider in seeking to ensure that the Index is administered through codified policies for Index integrity.

Index data and the description of the Index are based on information made publicly available by the Index Provider on its website at *https://www.cfbenchmarks.com.*

Net Asset Value

NAV means the total assets of the Fund (which includes ether, cash and cash equivalents) less total liabilities of the Fund. The Administrator will determine the NAV of the Fund on each day that the Exchange is open for regular trading, as promptly as practical after 4:00 p.m. EST. The NAV of the Fund is the aggregate value of the Fund's assets less its estimated accrued but unpaid liabilities (which include accrued expenses). In determining the Fund's NAV, the Administrator values the ether held by the Fund based on the price set by the Index as of 4:00 p.m. EST. The Administrator also determines the NAV per Share.

The NAV for the Fund will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time.

If the Index is not available or the Sponsor determines, in its sole discretion, that the Index should not be used, the Fund's holdings may be fair valued in accordance with the policy approved by the Sponsor.

Availability of Information

The website for the Fund, which will be publicly accessible at no charge, will contain the following information: (a) the current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the BZX Official Closing Price [39] in relation to the NAV as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Fund, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The aforementioned information will be published as of the close of business available on the Fund's website at *https://www.franklintempleton.com/investments/options/exchange-traded-funds,* or any successor thereto. The Fund will also disseminate its holdings on a daily basis on its website.

The Intraday Indicative Value (''IIV'') will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Fund's ether holdings during the trading day, which is based on CME CF Ether-Dollar Real Time Index. The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours through the facilities of the consolidated tape association (CTA) and Consolidated Quotation System (CQS) high speed lines. In addition, the IIV will be available through on-line information services such as Bloomberg and Reuters.

The price of ether will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours.

As noted above, the Index is calculated daily and aggregates the notional value of ether trading activity across major ether spot trading platforms. Index data, the Index value, and the description of the Index are based on information made publicly available by the Index Provider on its website at *https://www.cfbenchmarks.com.*

Quotation and last sale information for ether is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters. Information relating to trading, including price and volume information, in ether is available from major market data vendors and from the trading platforms on which ether are traded. Depth of book information is also available from ether trading platforms. The normal trading hours for ether trading platforms are 24 hours per day, 365 days per year.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA'').

The Custodian

The Custodian carefully considers the design of the physical, operational and cryptographic systems for secure storage of the Fund's private keys in an effort to lower the risk of loss or theft. The Custodian utilizes a variety of security measures to ensure that private keys necessary to transfer digital assets remain uncompromised and that the Fund maintains exclusive ownership of its assets. The Custodian will keep the private keys associated with the Fund's ether in ''cold storage'' [40] (the ''Cold

[39] As defined in Rule 11.23(a)(3), the term ''BZX Official Closing Price'' shall mean the price disseminated to the consolidated tape as the market center closing trade.

[40] The term ''cold storage'' refers to a safeguarding method by which the private keys corresponding to ether stored on a digital wallet are removed from any computers actively connected to the internet. Cold storage of private keys may involve keeping such wallet on a non-networked computer or

Continued

Vault Balance''). The hardware, software, systems, and procedures of the ether Custodian may not be available or cost-effective for many investors to access directly. Only specific individuals are authorized to participate in the custody process, and no individual acting alone will be able to access or use any of the private keys. In addition, no combination of the executive officers of the Sponsor, acting alone or together, will be able to access or use any of the private keys that hold the Fund's ether.

Creation and Redemption of Shares

When the Fund sells or redeems its Shares, it will do so in cash transactions in blocks of Shares that are based on the quantity of ether attributable to each Share of the Fund (*e.g.,* a Creation Basket) at the NAV. According to the Registration Statement, on any business day, an authorized participant may place an order to create one or more Creation Baskets. Purchase orders for cash transaction Creation Baskets must be placed by 2:00 p.m. Eastern Time, or the close of regular trading on the Exchange, whichever is earlier. The day on which an order is received is considered the purchase order date. The Administrator determines the required deposit for a given day by dividing the number of ether held by the Fund as of the opening of business on that business day, adjusted for the amount of ether constituting estimated accrued but unpaid fees and expenses of the Fund as of the opening of business on that business day, by the quotient of the number of Shares outstanding at the opening of business divided by the number of Shares in a Creation Basket. The procedures by which an authorized participant can redeem one or more Creation Baskets mirror the procedures for the creation of Creation Baskets.

The authorized participants will deliver only cash to create Shares and will receive only cash when redeeming Shares. Further, authorized participants will not directly or indirectly purchase, hold, deliver, or receive ether as part of the creation or redemption process or otherwise direct the Fund or a third party with respect to purchasing, holding, delivering, or receiving ether as part of the creation or redemption process.

The Fund will create Shares by receiving ether from a third party that is not the authorized participant and the Fund—not the authorized participant—is responsible for selecting the third party to deliver the ether. Further, the third party will not be acting as an agent of the authorized participant with respect to the delivery of the ether to the Fund or acting at the direction of the authorized participant with respect to the delivery of the ether to the Fund. The Fund will redeem Shares by delivering ether to a third party that is not the authorized participant and the Fund—not the authorized participant—is responsible for selecting the third party to receive the ether. Further, the third party will not be acting as an agent of the authorized participant with respect to the receipt of the ether from the Fund or acting at the direction of the authorized participant with respect to the receipt of the ether from the Fund.

A third party, that is unaffiliated with the Fund and the Sponsor, will use cash to buy and deliver ether to create Shares or withdraw and sell ether for cash to redeem Shares, on behalf of the Fund.

The Sponsor (including its delegates) will maintain ownership and control of the Fund's ether in a manner consistent with good delivery requirements for spot commodity transactions.

Rule 14.11(e)(4)—Commodity-Based Trust Shares

The Shares will be subject to BZX Rule 14.11(e)(4), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange represents that, for initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of listing on the Exchange. The Exchange will obtain a representation that the NAV will be calculated daily and that the NAV and information about the assets of the Fund will be made available to all market participants at the same time. The Exchange notes that, as defined in Rule 14.11(e)(4)(C)(i), the Shares will be: (a) issued by a trust that holds (1) a specified commodity [41] deposited with the trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash.

Upon termination of the Fund, the Shares will be removed from listing. The Trustee, Delaware Trust Company, is a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Rule 14.11(e)(4)(E)(iv)(a) and that no change will be made to the trustee without prior notice to and approval of the Exchange. The Exchange also notes that, pursuant to Rule 14.11(e)(4)(F), neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions or delays in calculating or disseminating any underlying commodity value, the current value of the underlying commodity required to be deposited to the Fund in connection with issuance of Commodity-Based Trust Shares; resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying commodity. Finally, as required in Rule 14.11(e)(4)(G), the Exchange notes that any registered market maker (''Market Maker'') in the Shares must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule. In addition to the existing obligations under Exchange rules regarding the production of books and records (see, *e.g.,* Rule 4.2), the registered Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to

electronic device or storing the public key and private keys relating to the digital wallet on a storage device (for example, a USB thumb drive) or printed medium (for example, papyrus or paper) and deleting the digital wallet from all computers.

[41] For purposes of Rule 14.11(e)(4), the term commodity takes on the definition of the term as provided in the Commodity Exchange Act.

transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by the Exchange.

The Exchange is able to obtain information regarding trading in the Shares and the underlying ether, Eth Futures contracts, options on Eth Futures, or any other ether derivative through members acting as registered Market Makers, in connection with their proprietary or customer trades.

As a general matter, the Exchange has regulatory jurisdiction over its Members and their associated persons, which include any person or entity controlling a Member. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of a Member that does business only in commodities or futures contracts, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the ether underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(e)(4)(E)(ii), which sets forth circumstances under which trading in the Shares may be halted.

If the IIV or the value of the Index is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or the value of the Index occurs. If the interruption to the dissemination of the IIV or the value of the Index persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BZX will allow trading in the Shares during all trading sessions on the Exchange. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a) the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01 where the price is greater than $1.00 per share or $0.0001 where the price is less than $1.00 per share. The Shares of the Fund will conform to the initial and continued listing criteria set forth in BZX Rule 14.11(e)(4).

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and Ether Futures with other markets and other entities that are members of the ISG, and the Exchange, or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and Ether Futures from such markets and other entities.[42] The Exchange may obtain information regarding trading in the Shares and Eth Futures via ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (i) the procedures for the creation and redemption of Creation Baskets (and that the Shares are not individually redeemable); (ii) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (iii) how information regarding the IIV and the Fund's NAV are disseminated; (iv) the risks involved in trading the Shares outside of Regular Trading Hours[43] when an updated IIV will not be calculated or publicly disseminated; (v) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information. The Information Circular will also reference the fact that there is no regulated source of last sale information regarding ether, that the Commission has no jurisdiction over the trading of ether as a commodity, and that the CFTC has regulatory jurisdiction over the trading of Ether Futures contracts and options on Ether Futures contracts.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Shares. Members purchasing the Shares for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

[42] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[43] Regular Trading Hours is the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act [44] in general and section 6(b)(5) of the Act [45] 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.

The Commission has approved numerous series of Trust Issued Receipts,[46] including Commodity-Based Trust Shares,[47] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; [48] and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of section 6(b)(5) of the Act and that this filing sufficiently demonstrates that the CME Ether Futures market represents a regulated market of significant size and that, on the whole, the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by quantifiable investor protection issues that would be resolved by approving this proposal.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

In order to meet this standard in a proposal to list and trade a series of Commodity-Based Trust Shares, the Commission requires that an exchange demonstrate that there is a comprehensive surveillance-sharing agreement in place [49] with a regulated market of significant size. Both the Exchange and CME are members of ISG.[50] The only remaining issue to be addressed is whether the ETH Futures market constitutes a market of significant size, which both the Exchange and the Sponsor believe that it does. The terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which: (a) there is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct; and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[51]

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying section 6(b)(5) of the Act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[52]

(a) Manipulation of the ETP

The significant market test requires that there is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct. In light of the similarly high correlation between spot ETH/CME Ether Futures and spot bitcoin/CME Bitcoin Futures, applying the same rationale that the Commission applied to a Spot Bitcoin ETP in the Spot Bitcoin ETP Approval Order [53] also indicates that this test is satisfied for this proposal. As noted above, in the Spot Bitcoin ETP Approval Order, the SEC concluded that:

> . . . fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME's surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges' comprehensive surveillance-sharing agreement with the CME . . . can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [p]roposals.[54]

The assumptions from this statement are also true for CME Ether Futures. CME Ether Futures pricing is based on pricing from spot ether markets. The statement from the Spot Bitcoin ETP Approval Order that the surveillance-sharing agreement with the CME ''can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [p]roposals'' makes clear that the Commission

[44] 15 U.S.C. 78f.

[45] 15 U.S.C. 78f(b)(5).

[46] See Exchange Rule 14.11(f).

[47] Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

[48] The Exchange believes that ETH is resistant to price manipulation and that ''other means to prevent fraudulent and manipulative acts and practices'' exist to justify dispensing with the requisite surveillance sharing agreement. The geographically diverse and continuous nature of ETH trading render it difficult and prohibitively costly to manipulate the price of ETH. The fragmentation across ETH platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of ETH prices through continuous trading activity challenging. To the extent that there are ETH exchanges engaged in or allowing wash trading or other activity intended to manipulate the price of ETH on other markets, such pricing does not normally impact prices on other exchange because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between the ETH markets and the presence of arbitrageurs in those markets means that the manipulation of the price of ETH price on any single venue would require manipulation of the global ETH price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular ETH exchange or OTC platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

[49] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since ''they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance- sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing it to, the other party.'' The Commission has historically held that joint membership in ISG constitutes such a surveillance sharing agreement. See Wilshire Phoenix Disapproval.

[50] For a list of the current members and affiliate members of ISG, see *www.isgportal.com.*

[51] *See* Wilshire Phoenix Disapproval.

[52] *See* Winklevoss Order at 37580. The Commission has also specifically noted that it ''is not applying a 'cannot be manipulated' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met.'' *Id.* at 37582.

[53] *See* the Spot Bitcoin ETP Approval Order.

[54] *See* the Spot Bitcoin ETP Approval Order at 3011–3012.

believes that CME's surveillance can capture the effects of trading on the relevant spot markets on the pricing of CME Bitcoin Futures. This same logic would extend to CME Ether Futures markets where CME's surveillance would be able to capture the effects of trading on the relevant spot markets on the pricing of CME Ether Futures.

(b) Predominant Influence on Prices in Spot and ETH Futures

The Exchange and Sponsor also believe that trading in the Shares would not be the predominant force on prices in the CME Ether Futures market for a number of reasons. First, because the Fund would not hold CME Ether Futures contracts, the only way that it could be the predominant force on prices in that market is through the spot markets that CME Ether Futures contracts use for pricing.[55] The Sponsor notes that ether total 24-hour spot trading volume has averaged $9.4 billion over the year ending September 1, 2023.[56] The Sponsor expects that the Fund would represent a very small percentage of this daily trading volume in the spot ether market even in its most aggressive projections for the Fund's assets and, thus, the Fund would not have an impact on the spot market and therefore could not be the predominant force on prices in the CME Ether Futures market. Second, much like the CME Bitcoin Futures market, the CME Ether Futures market has progressed and matured significantly. As the court found in the Grayscale Order, ''Because the spot market is deeper and more liquid than the futures market, manipulation should be more difficult, not less.'' The Exchange and sponsor agree with this sentiment and believe it applies equally to the spot ether and CME Ether Futures markets.

(c) Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement. The Exchange and Sponsor believe that such conditions are present.

The Exchange believes that the proposal is designed to protect investors and the public interest. Over the past several years, U.S. investor exposure to ether through OTC ETH Funds has grown into the tens of billions of dollars and more than a billion dollars of exposure through Ether Futures ETFs. With that growth, so too has grown the quantifiable investor protection issues to U.S. investors through roll costs for Ether Futures ETFs and premium/discount volatility and management fees for OTC ETH Funds. The Exchange believes that the concerns related to the prevention of fraudulent and manipulative acts and practices have been sufficiently addressed to be consistent with the Act and, to the extent that the Commission disagrees with that assertion, also believes that such concerns are now outweighed by these investor protection concerns. As such, the Exchange believes that approving this proposal (and comparable proposals) provides the Commission with the opportunity to allow U.S. investors with access to ether in a regulated and transparent exchange-traded vehicle that would act to limit risk to U.S. investors by: (i) reducing premium and discount volatility; (ii) reducing management fees through meaningful competition; (iii) reducing risks and costs associated with investing in Ether Futures ETFs and operating companies that are imperfect proxies for ether exposure; and (iv) providing an alternative to custodying spot ether.

Commodity-Based Trust Shares

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in Exchange Rule 14.11(e)(4). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and listed ether derivatives via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

Availability of Information

In addition to the price transparency of the Index, the Fund will provide information regarding the Fund's ETH holdings as well as additional data regarding the Fund. The website for the Fund, which will be publicly accessible at no charge, will contain the following information: (a) the current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the BZX Official Closing Price[57] in relation to the NAV as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Fund, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The aforementioned information will be published as of the close of business available on the Fund's website at *https://www.franklintempleton.com/investments/options/exchange-traded-funds,* or any successor thereto. The Fund will also disseminate its holdings on a daily basis on its website.

The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Fund's ether holdings during the trading day, which is based on CME CF Ether-Dollar Real Time Index. The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours through the facilities of the consolidated tape association (CTA) and Consolidated Quotation System (CQS) high speed lines. In addition, the IIV will be available through on-line information services such as Bloomberg and Reuters.

[55] This logic is reflected by the court in the Grayscale Order at 17–18. Specifically, the court found that ''Because Grayscale owns no futures contracts, trading in Grayscale can affect the futures market only through the spot market. . .But Grayscale holds just 3.4 percent of outstanding bitcoin, and the Commission did not suggest Grayscale can dominate the price of bitcoin.''

[56] Source: TokenTerminal.

[57] As defined in Rule 11.23(a)(3), the term ''BZX Official Closing Price'' shall mean the price disseminated to the consolidated tape as the market center closing trade.

The price of ether will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours.

As noted above, the Index is calculated daily and aggregates the notional value of ether trading activity across major ether spot trading platforms. Index data, the Index value, and the description of the Index are based on information made publicly available by the Index Provider on its website at *https://www.cfbenchmarks.com.*

Quotation and last sale information for ether is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters. Information relating to trading, including price and volume information, in ether is available from major market data vendors and from the trading platforms on which ether are traded. Depth of book information is also available from ether trading platforms. The normal trading hours for ether trading platforms are 24 hours per day, 365 days per year.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

In sum, the Exchange believes that this proposal is consistent with the requirements of section 6(b)(5) of the Act, that this filing sufficiently demonstrates that the CME Ether Futures market represents a regulated market of significant size, and that on the whole the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by investor protection issues that would be resolved by approving this proposal.

The Exchange believes that the proposal is, in particular, designed to protect investors and the public interest. Premium and discount volatility, high fees, rolling costs, insufficient disclosures, and technical hurdles are putting U.S. investor money at risk on a daily basis that could potentially be eliminated through access to a Spot Ether ETP. As such, the Exchange believes that this proposal acts to limit the risk to U.S. investors that are increasingly seeking exposure to ether by providing direct, 1-for-1 exposure to ether in a regulated, transparent, exchange-traded vehicle, specifically by: (i) reducing premium/discount volatility; (ii) reducing management fees through meaningful competition; (iii) providing an alternative to Ether Futures ETFs which will eliminate roll cost; (iv) reducing risks associated with investing in operating companies that are imperfect proxies for ether exposure; and (v) providing an alternative to custodying spot ether. The investor protection issues for U.S. investors has grown significantly over the last several years, through roll costs for Ether Futures ETFs and premium/discount volatility and management fees for OTC ETH Funds. As discussed throughout, this growth investor protection concerns need to be reevaluated and rebalanced with the prevention of fraudulent and manipulative acts and practices concerns that previous disapproval orders have relied upon. Finally, the Exchange notes that in addition to all of the arguments herein which it believes sufficiently establishes the CME Ether Futures market as a regulated market of significant size, it is logically inconsistent to find that the CME Ether Futures market is a significant market as it relates to the CME Ether Futures market, but not a significant market as it relates to the ether spot market for the numerous reasons laid out above.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of an additional exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

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 written comments on 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2024–018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2024–018. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or

subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2024–018 and should be submitted on or before April 3, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[58]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–05251 Filed 3–12–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99692; File No. SR–CboeBZX–2024–019]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Company Listing Fees as Provided Under Exchange Rule 14.13

March 7, 2024.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder,[2] notice is hereby given that on February 22, 2024, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change to modify the Company Listing Fees as provided under Exchange Rule 14.13. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/BZX/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the Company Listing Fees under Rule 14.13 to provide for an application fee, entry fee, and annual fee specifically applicable to acquisition companies, as described in Rule 14.2(b) (an ''Acquisition Company''). The Exchange also proposes to adopt new fees applicable to a Company that lists additional shares of an existing class of security already listed on the Exchange or an additional class of security, as further described below, (collectively referred to as ''Additional Listings'').[3]

Acquisition Companies may be listed as Tier I or Tier II securities on the Exchange, provided that they meet the applicable listing requirements of the applicable tier and the additional requirements set forth in Rule 14.2(b). Currently, Acquisition Companies, among other issuers that are not otherwise identified in Rule 14.13,[4] are subject to the application fee, entry fee, and annual fee as provided under Rule 14.13(b)(1), (2), and (3), respectively, and are assessed the fee based on their listing as a Tier I or Tier II security.[5]

Now, the Exchange proposes to adopt new fees specifically applicable to Acquisition Companies listed as either Tier I or Tier II securities on the Exchange. Such fee would be the same regardless of whether the Acquisition Company is listed as a Tier I or Tier II security.

First, the Exchange proposes to modify the application fees. The Exchange first proposes to re-letter the existing application fee to Rule 14.13(b)(1)(A) with no substantive change, except as described below. Currently, Acquisition Companies are subject to the application fee of $25,000 or $50,000, as applicable for Tier I or Tier II securities, as provided in Rule 14.13(b)(1). The Exchange proposes to adopt Rule 14.13(b)(1)(B), which would provide that an Acquisition Company, under Rule 14.2(b), shall pay to the Exchange a modified application fee of $5,000 regardless of the Tier under which the Acquisition Company lists on the Exchange. The application fee will be $5,000, which must be submitted with the Company's application. If the Company does not list within 12 months of submitting its application, it will be assessed an additional non-refundable $5,000 application fee each 12 months thereafter to keep its application open.

When a Company that lists a substantial period of time after it first submitted its application, the Exchange must complete additional reviews of the application prior to the listing. These additional reviews are substantially equivalent to the review for a newly applying company and include, for example, additional reviews of individuals associated with the company, staff monitoring of disclosures and public filings by the applicant while its application is pending, and often extensive discussions with the applicant. To offset the costs associated with the ongoing monitoring and additional reviews for companies whose application remains open for an extended period, the Exchange proposes to require that an applicant that does not list within 12 months of submitting its application pay an additional $5,000 application fee each subsequent 12-month period. The

[58] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee change on January 23, 2024 (SR–CboeBZX–2024–009). On February 5, 2024, the Exchange withdrew that filing and submitted another proposal (SR–CboeBZX–2024–014). On February 9, 2024, the Exchange withdrew SR–CboeBZX–2024–014 and submitted another proposal (SR–CboeBZX–2024–015). On February 22, 2024, the Exchange withdrew SR–CboeBZX–2024–015 and submitted this proposal (SR–CboeBZX–2024–019).

[4] For example, the entry fees and annual fees for ETPs are cited under Rule 14.13(b)(2)(E) and 14.3(b)(3)(D), respectively. There is no application fee for ETPs listed on the Exchange.

[5] For Tier I securities listed on the Exchange, the application fee is $25,000, unless the Company is at any point during the Exchange's review of the application simultaneously engaged in the application process to list on another national securities exchange, in which case the application fee will be $50,000 (Rule 14.13(b)(1)); the entry fee is $100,00 less the application fee (Rule 14.13(b)(2)(A)); and the annual fee is $35,000 (Rule 14.13(b)(3)(A)). For a Tier II securities listed on the Exchange, the application fee is $25,000, unless the Company is at any point during the Exchange's review of the application simultaneously engaged in the application process to list on another national securities exchange, in which case the application fee will be $50,000 (Rule 14.13(b)(1)); the entry fee is $50,00 less the application fee (Rule 14.13(b)(2)(B)); and the annual fee is $20,000 (Rule 14.13(b)(3)(B)).

Exchange believes that the proposed additional application fee may result in companies closing unrealistic applications rather than maintaining such applications indefinitely.

Like the proposed application fee, the proposed additional application fee for applications open greater than 12 months would be credited towards the entry fee payable upon listing if the application remains open until such listing.[6] Thus, under the newly adopted fees for an Acquisition Company that ultimately lists on the Exchange, there would be no difference in the overall fee paid if the application was open greater than 12 months.[7] If a company does not timely pay the additional application fee, its application will be closed and it will be required to submit a new application, and pay a new application fee, if it subsequently reapplies.[8]

The Exchange proposes to adopt Rule 14.13(b)(1)(C), which would provide that the fees described in this Rule 14.13(b)(1)(A) and (B) shall not be applicable to Additional Listings, as described in proposed Rule 14.13(b)(2)(D) and further below. Thus, Additional Listings would not be assessed an application fee.

The Exchange also proposes to modify the entry fees. Currently, Acquisition Companies are subject to an entry fee of $50,000 or $100,000 (less the application fee), as applicable for Tier I or Tier II securities, as provided in Rules 14.13(b)(2)(A) and (B). Now, the Exchange proposes to adopt an entry fee specifically applicable to Acquisition Companies under proposed Rule 14.13(b)(2)(C). Proposed Rule 14.13(b)(2)(C) would state that a Company that receives conditional approval to list an Acquisition Company as a Tier I or Tier II security shall pay to the Exchange a fee of $60,000 less the application fee, which covers both the primary equity securities and also warrants and rights, if any. This fee will be assessed on the date the Exchange provides conditional approval. The proposed fee would result in an increased fee of $10,000 for Acquisition Companies that currently list as Tier II securities on the Exchange, and decrease by $40,000 for Acquisition Companies that currently list as Tier I securities on the Exchange.

A Company listed as an Acquisition Company under Rule 14.2(b) (until the Company has satisfied the condition in Rule 14.2(b)(2)[9] that lists an additional class of equity securities (not otherwise identified in this Rule 14.13)) is not subject to entry fees under this Rule, but is charged a non-refundable $5,000 initial application fee as described in Rule 14.13(a)(1)(B). While the Exchange believes it is unlikely to occur, Acquisition Companies that choose to list additional shares of an existing class of security already listed on the Exchange would be subject to the Additional Listings fee of $10,000 as provided in proposed Exchange Rule 14.13(2)(D). The proposed fee entry fee for Acquisition Companies under Rule 14.13(b)(2)(C) would be subject to the provisions of existing Rule 14.13(b)(2)(D),[10] (F),[11] and (G)[12] in the same manner as all Tier I and Tier II securities listed on the Exchange.

The Exchange also proposes to adopt an entry fee, applicable to all Tier I and Tier II securities listed on the Exchange not otherwise identified in Rule 14.13, for Additional Listings under proposed Rule 14.13(b)(2)(D).[13] Specifically, a Company that lists additional shares of an existing class of security already listed on the Exchange or an additional class of primary equity securities, rights, warrants, convertible debt, preferred stock, or secondary classes of common stock, shall be required to pay to the Exchange a fee of $10,000. This fee will be assessed on the date the Exchange provides conditional approval.

The Exchange proposes to re-letter existing Rules 14.13(b)(2)(C) through (G) to accommodate the addition of proposed Rules 14.13(b)(2)(C) and (D).

The Exchange also proposes to modify the annual fees. Currently, Acquisition Companies are subject to an annual fee of $20,000 or $35,000, as applicable for Tier I or Tier II securities, as provided in Rules 14.13(b)(3)(A) and (B). Now, the Exchange proposes to adopt an annual fee specifically applicable to Acquisition Companies listed as Tier I or Tier II securities on the Exchange under proposed Rule 14.13(b)(3)(C). Proposed Rule 14.13(b)(3)(C) would provide that the issuer of an Acquisition Company listed on the Exchange as a Tier I or Tier II security shall pay to the Exchange an annual fee of $55,000. Therefore, the annual fee would increase by $35,000 for Acquisition Companies currently listed as Tier II securities on the Exchange, and $20,000 for Acquisition Companies currently listed as Tier I securities on the Exchange. The proposed fee would be subject to the provisions of Rule 14.13(b)(3)(D),[14] (E),[15] (F),[16] (G),[17] and

[6] *See* proposed Exchange Rule 14.13(b)(2)(C).

[7] Proposed Exchange Rule 14.13(b)(1)(B) provides that the application fee and any additional application fee is non-refundable.

[8] *See* proposed Exchange Rule 14.13(b)(1)(B).

[9] Rule 14.2(b)(2) states: Within 36 months of the effectiveness of its initial public offering registration statement, or such shorter period that the company specifies in its registration statement, the Company must complete one or more business combinations having an aggregate fair market value of at least 80% of the value of the deposit account (excluding any deferred underwriters fees and taxes payable on the income earned on the deposit account) at the time of the agreement to enter into the initial combination.

[10] Rule 14.13(b)(2)(D) provides that the Exchange Board of Directors or its designee may, in its discretion, defer or waive all or any part of the entry fee prescribed herein.

[11] Existing Rule 14.13(b)(2)(F) (and proposed Rule 14.13(b)(2)(H) provides that the fees described in this Rule 14.13(b)(1) and (2) shall not be applicable with respect to any securities that (i) are listed on another national securities exchange but not listed on the Exchange, if the issuer of such securities transfers their listing exclusively to the Exchange; (ii) are listed on another national securities exchange and the Exchange, if the issuer of such securities ceases to maintain their listing on the other exchange and the securities instead are designated as national market system securities under Rule 14.3(d); or (iii) are listed on another national securities exchange but not listed on the Exchange, if the issuer of such securities is acquired by an unlisted company and, in connection with the acquisition, the unlisted company lists exclusively on the Exchange.

[12] Existing Rule 14.13(b)(2)(G) and proposed Rule 14.13(b)(2)(I) provides that the fees described in this Rule 14.13(b)(1) and (2) shall not be applicable to a Company: (i) whose securities are listed on another national securities exchange and designated as national market securities pursuant to the plan governing such securities at the time such securities are approved for listing on the Exchange; and (ii) that maintains such listing and designation after it lists such securities on the Exchange.

[13] As described above, an Acquisition Company that issues an additional class of equity security (not otherwise identified in this Rule 14.13)) will not be subject to proposed Rule 14.13(b)(2)(D).,

[14] Existing Rule 14.13(b)(3)(D) and proposed Rule 14.13(b)(3)(F) provides that the Exchange Board of Directors or its designee may, in its discretion, defer or waive all or any part of the annual fee prescribed herein.

[15] Existing Rule 14.13(b)(3)(E) and proposed Rule 14.13(b)(3)(G) provides that if a class of securities is removed from the Exchange that portion of the annual fees for such class of securities attributable to the months following the date of removal shall not be refunded except that ETPs that have liquidated and as a result are delisted from the Exchange will be prorated for the portion of the calendar year that such issue was listed on the Exchange, based on trading days listed that calendar year, and refunded.

[16] Existing Rule 14.13(b)(3)(F) and proposed Rule 14.13(b)(3)(H) provides that in lieu of the fees described in Rules 14.13(b)(3)(A) and (B), the annual fee shall be $15,000 for each Company: (i) whose securities are listed on another national securities exchange and designated as national market system securities pursuant to the plan governing such securities at the time such securities are approved for listing on the Exchange; and; (ii) that maintains such listing and designation after it lists such securities on the Exchange. Such annual fee shall be assessed on the first anniversary of the Company's listing on the Exchange.

[17] Existing Rule 14.13(b)(3)(G) and proposed Rule 14.13(b)(3)(I) provides that the fees described in this Rule 14.13(b)(3), except for pricing applicable to ETPs as set forth in sub-paragraph (C) above, shall not be applicable with respect to any securities that have had a consolidated average daily volume equal to or greater than 2 million shares per day for the immediately preceding two (2) calendar months

(H) [18] in the same manner as all Tier I and Tier II securities listed on the Exchange.

Last, the Exchange proposed to adopt Rule 14.13(b)(3)(C), which would provide that the annual fees provided in existing Rules 14.13(b)(3)(A), (B), and (D) would not be applicable to Additional Listings, as described under Rule 14.13(b)(2)(D). Currently, Additional Listings would be subject to the full application and entry fee for Tier I and Tier II Securities, which total $50,000 and $100,000 respectively. Therefore, the proposed annual fee would decrease for all Tier I or Tier II securities that are Additional Listings. Additionally, the Exchange does not propose to charge any annual fee for Additional Listings by Acquisition Companies as the Exchange expects this is unlikely to occur.

The Exchange proposes to re-letter existing Rule 14.13(c)(3)(C) through (H) to accommodate the addition of proposed Rules 14.13(b)(3)(C) and (D). The Exchange also proposes to modify the text of existing Rule 14.13(b)(3)(G) to reference new Rule 14.13(b)(3)(E).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[19] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) [20] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) [21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as section 6(b)(4) [22] as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

The Exchange first notes that its corporate listing business operates in a highly competitive market in which Companies can readily list on another national securities exchange if they deem fee levels or any other factor at a particular venue to be insufficient or excessive. The Exchange believes that Exchange Rule 14.13 reflects a competitive pricing structure designed to incentivize Companies to list new securities, which the Exchange believes will enhance competition both among Companies, issuers, and listing venues, to the benefit of investors.

The Exchange believes it is reasonable and not unfairly discriminatory to charge Acquisition Companies a lower application fee and lower fee for listing an additional class of security than other operating companies. The proposed application fee for Acquisition Companies is $5,000, which is less than the existing application fee for Tier I and Tier II securities listed on the Exchange, which range from $25,000 to $50,000.[23] Further, the proposed fee for Companies that list an additional class of security on the Exchange is $10,000, except for Acquisition Companies which are not subject to the Additional Listings fee but instead the $5,000 application fee. The Exchange's initial review of an Acquisition Company is generally less costly than conducting an initial listing review of other types of companies for a number of reasons. Specifically, review of an Acquisition Company's IPO application is generally much simpler and quicker than an application of an operating company because an Acquisition Company has no underlying operating business. For the same reason, the Exchange believes an Acquisition Company's SEC filings and IPO documentation are much less detailed and its financial statements are relatively simple. Because an Acquisition Company must not have identified the target at the time of the IPO, the Acquisition Company's registration statement does not have an operating business to describe and has no risk factors related to an operating business. Further, Acquisition Companies generally qualify as Emerging Growth Companies under section 2(a)(19) of the Act, which results in scaled requirements for narrative disclosure and financial reporting.

The Exchange acknowledges that the annual fee for Acquisition Companies listed on other exchange listing venues is typically less than the annual fee for operating companies because Acquisition Companies generally require less exchange resources than operating companies. Nonetheless, the Exchange's current annual fee for Tier I and Tier II securities are considerably lower than other competitor listing markets because those fees have not increased since they were adopted in 2011,[24] and remain lower than competitors in order to incentivize operating companies to list on the Exchange. Additionally, an Acquisition Company will list on the Exchange for a maximum of three years, the Exchange can only reasonably expect to assess a maximum of three years of annual fees. In contrast, operating companies may list an indefinite number of years on the Exchange, resulting in a potentially indefinite number of annual fee assessments. Therefore, the Exchange does not believe it is discriminatory to charge Acquisition Companies a higher annual fee as their potential total costs for annual fees for the life of the listed product may be significantly less than that of an operating company.

The Exchange also believes that the proposal to assess an additional application fee to Acquisition Companies that do not list within 12 months of submitting its application is reasonable because it is designed to recoup a portion of the costs associated with the Exchange having to re-review the Acquisition Company. Further, as described above, all application fees would be credited to the entry fee; thus, for an Acquisition Company that ultimately lists on the Exchange, there would be no change in the collective application fee and entry fee regardless of whether the application was open for greater than 12 months. The Exchange notes that another exchange similarly provides that an additional application fee for Acquisition Companies that do not list within 12 months of submitting its application will be assessed an additional non-refundable application fee each 12 months to keep its application open.[25]

As proposed, the entry fee applicable to an Acquisition Company would decrease for Tier I securities and increase for Tier II securities listed on the Exchange. Specifically, the entry fee

[18] Existing Rule 14.13(b)(3)(H) and proposed Rule 14.13(b)(3)(K) provides that unless otherwise specified, the Exchange will assess all annual fees set forth in this Rule 14.13(b)(3) upon initial listing and on each anniversary of the security's listing on the Exchange.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] 15 U.S.C. 78f(b)(4).

[23] *See* Exchange Rule 14.13(b)(1).

[24] *See* Securities Exchange Act No. 65225 (August 30, 2011) 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018) (Order Approving Proposed Rule Change To Adopt Rules for the Qualification, Listing and Delisting of Companies on the Exchange).

[25] *See* Nasdaq Rule 5910(a)(11).

would decrease from $100,000 to $60,000 for Tier I securities and increase from $50,000 to $60,000 for Tier II securities. The Exchange believes it is reasonable to charge Acquisition Companies the same entry fee regardless of whether they are listed as a Tier I or Tier II security given that they are treated the same. For example, each receive identical services from the Exchange upon announcing a business combination. The Exchange believes the proposed entry fee strikes a balance between the existing entry fees applicable to Acquisition Companies and is representative of the Exchange's resources spent in listing such an Acquisition Company on the Exchange. Furthermore, the Exchange competes with other listing markets, which have adopted entry fees for Acquisition Companies that are higher than those proposed by the Exchange.[26]

The Exchange believes it is reasonable not unfairly discriminatory to adopt entry fees specifically applicable to Additional Listings for Companies already listed on the Exchange. Under the current fee structure, the listing of additional shares or an additional class of equity security are subject to the application fee and entry fee for a Tier I or Tier II security, as applicable. Now, the Exchange proposes to provide that no application fee will be applicable to Additional Listings, and that the entry fee will be reduced to $10,000. The Exchange believes this proposed change better reflects the value of listing an additional class of security for already listed companies and to better align such value with the Exchange's regulatory resources expended in connection with such applications. In particular, the Exchange believes it is reasonable to charge only a non-refundable entry fee of $10,000 because the company listing an additional class or additional shares of the same class of security on the Exchange is already subject to Exchange rules, including the applicable corporate governance requirements. Accordingly, the Exchange expects to expend less regulatory resources qualifying an additional class of equity security for listing. The Exchange also notes that other exchanges have similarly adopted separate fees applicable to an additional class of equity security, which are higher than the Exchange's proposed fee.[27] The Exchange believes its proposal that Additional Listings be charged no application or annual fee is reasonable and equitable because it will result in lower costs to all companies seeking to list Additional Listings on the Exchange.[28]

The Exchange continues to believe that differentiating fees applicable to Acquisition Companies and operating companies from ETPs is reasonable because of the unique and different characteristics of listings ETPs. For example, certain types of ETPs by their nature require multiple listings. The existing fee structure for such listings is designed to encourage issuers of such products to list multiple ETPs on the Exchange at a reduced cost. As such, the Exchange believes it is reasonable and non-discriminatory to assess fees to ETPs in a different manner than Acquisition Companies and operating companies.

Finally, the Exchange believes that the proposed conforming changes to re-letter existing rules and update applicable rule references will maintain the clarity of the Exchange's rulebook, to the benefit of all investors.

Given the foregoing, the Exchange believes the proposed fee amendments are consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The market for listing services is extremely competitive and listed companies may freely choose alternative venues based on the aggregate fees assessed, and the value provided by each listing.

The proposal changes the application fee, entry fee, and annual fee for Acquisition Companies listed on the Exchange and also changes the application and entry fee applicable to Additional Listings on the Exchange. The Exchange does not believe that these changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the proposal to assess application fees, entry fees, and annual fees specific to Acquisition Companies listed on the Exchange is reasonable because it provides a tailored fee structure to such companies in a similar manner as other exchanges.

The Exchange believes it is reasonable to charge Acquisition Companies the same entry fee regardless of whether they are listed as a Tier I or Tier II security given that they are treated the same. For example, each receive identical services from the Exchange upon announcing a business combination. The Exchange believes the proposed entry fee strikes a balance between the existing entry fees applicable to Acquisition Companies, and is representative of the Exchange's resources spent in listing such an Acquisition Company on the Exchange.

The Exchange continues to believe that differentiating fees applicable to Acquisition Companies and operating companies from ETPs is reasonable because of the unique and different characteristics of listings ETPs. For example, certain types of ETPs by their nature require multiple listings. The existing fee structure for such listings is designed to encourage issuers of such products to list multiple ETPs on the Exchange at a reduced cost. As such, the Exchange believes it is reasonable and non-discriminatory to assess fees to ETPs in a different manner than Acquisition Companies and operating companies.

The Exchange does not believe that the proposal to adopt entry fees specifically applicable to Additional Listings for Companies already listed on the Exchange will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Under the current fee structure, the listing of additional shares or an additional class of equity security are subject to the application fee and entry fee for a Tier I or Tier II security, as applicable. Now, the Exchange proposes to provide that no application fee will be applicable to Additional Listings, and that the entry fee will be reduced to $10,000. The Exchange believes this proposed change better reflects the value of listing an additional class of security for already listed companies and to better align such value with the Exchange's regulatory resources expended in connection with such applications. In particular, the Exchange believes it is reasonable to charge only a non-refundable entry fee of $10,000 because the company listing an additional class or additional shares of the same class of security on the Exchange is already subject to Exchange rules, including the applicable corporate governance requirements. Accordingly, the Exchange expects to expend less regulatory resources qualifying an

[26] Nasdaq Rules 5910(a)(1)(B) and 5920(a)(1)(B) provide that the entry fee for Acquisition Companies for Nasdaq Global Market and Nasdaq Capital Market, respectively, is $80,000, of which $5,000 is a non-refundable initial application fee. Section 145a of the NYSE American LLC Company Guide provides that Acquisition Companies are subject to a flat listing fee of $85,000 that will be applied at the time a company first lists as an Acquisition Company on NYSE American.

[27] *See e.g.,* Nasdaq Global Market Rule 5910(a)(1)(A)(ii).

[28] The fees applicable to listings as set forth in Rule 14.13(b) are applicable based on security listed on the exchange rather than the Company itself.

additional class of equity security for listing. The Exchange also notes that other exchanges have similarly adopted separate fees applicable to an additional class of equity security, which are higher than the Exchange's proposed fee.[29] The Exchange believes its proposal that Additional Listings be charged no application or annual fee is reasonable and equitable because it will result in lower costs to all companies seeking to list Additional Listings on the Exchange.[30]

The Exchange believes that the proposed amendments do not encumber competition for listings with other listing venues, which are similarly free to set their fees. Rather, it reflects competition among listing venues and will further enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[31] and paragraph (f) of Rule 19b–4[32] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2024–019 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2024–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2024–019 and should be submitted on or before April 3, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–05256 Filed 3–12–24; 8:45 am]

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[29] *See e.g.,* Nasdaq Global Market Rule 5910(a)(1)(A)(ii).

[30] The fees applicable to listings as set forth in Rule 14.13(b) are applicable based on security listed on the exchange rather than the Company itself.

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99687; File No. SR–PHLX–2023–40]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Withdrawal of a Proposed Rule Change, as Modified by Partial Amendment No. 1, To Amend Equity 4, Rules 3301A and 3301B To Establish New ''Contra Midpoint Only'' and ''Contra Midpoint Only With Post-Only'' Order Types and To Make Other Corresponding Changes to the Rulebook

March 7, 2024.

On August 28, 2023, Nasdaq PHLX LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Equity 4, Rules 3301A and 3301B to establish new ''Contra Midpoint Only'' and ''Contra Midpoint Only with Post-Only'' order types and to make other corresponding changes to the rulebook. The proposed rule change was published for comment in the **Federal Register** on September 8, 2023.[3]

On September 26, 2023, pursuant to section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On November 2, 2023, the Exchange filed Partial Amendment No. 1 to the proposed rule change.[6] On December 5, 2023, the Commission published Partial Amendment No. 1 for notice and comment and instituted proceedings under section 19(b)(2)(B) of the Act[7] to determine whether to approve or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98280 (Sept. 1, 2023), 88 FR 62129. Comments received by the Commission on the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-phlx-2023-40/srphlx202340.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 98528, 88 FR 67846 (Oct. 2, 2023). The Commission designated December 7, 2023, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] Amendment No. 1 is available at *https://www.sec.gov/comments/sr-phlx-2023-40/srphlx202340-293100-713082.pdf.*

[7] 15 U.S.C. 78s(b)(2)(B).

disapprove the proposed rule change, as modified by Partial Amendment No. 1.[8]

On March 4, 2024, the Exchange withdrew the proposed rule change, as modified by Partial Amendment No. 1 (File No. SR–PHLX–2023–40).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–05252 Filed 3–12–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99689; File No. SR–NYSE–2024–12]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the NYSE Aggregated Lite Market Data Feed

March 7, 2024.

Pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 27, 2024, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish the NYSE Aggregated Lite (''NYSE Agg Lite'') market data feed. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish the NYSE Agg Lite market data feed. The NYSE Agg Lite is a NYSE-only frequency-based depth of book market data feed of the NYSE's limit order book for up to ten (10) price levels on both the bid and offer sides of the order book for securities traded on the Exchange and for which the Exchange reports quotes and trades under the Consolidated Tape Association (''CTA'') Plan or the Nasdaq/UTP Plan. NYSE Agg Lite would be a compilation of limit order data that the Exchange would provide to vendors and subscribers. As proposed, the NYSE Agg Lite data feed would be updated no less frequently than once per second. The NYSE Agg Lite would include depth of book order data as well as security status messages. The security status message would inform subscribers of changes in the status of a specific security, such as trading halts, short sale restriction, etc. In addition, the NYSE Agg Lite would also include order imbalance information prior to the opening and closing of trading.

The Exchange proposes to offer NYSE Agg Lite after receiving requests from vendors and subscribers that would like to receive the data described above in an integrated fashion at a pre-defined publication interval, in this case updates no less than once per second. An aggregated data feed may provide greater efficiencies and reduce errors for vendors and subscribers that currently choose to integrate the above data into a single offering after receiving it from the Exchange through existing products and adjust the publication frequency based on a subscriber's needs. The Exchange believes that providing vendors and subscribers with the option to subscribe to a market data product that integrates a subset of data from existing products and where such aggregated data is published at a pre-defined interval, thus lowering bandwidth, infrastructure and operational requirements, would allow vendors and subscribers to choose the best solution for their specific business needs. The Exchange notes that publishing only the top ten price levels on both the bid and offer sides of the order book where such data is communicated to subscribers at a pre-defined interval would reduce the overall volume of messages required to be consumed by subscribers when compared to a full order-by-order data feed or a full depth of book data feed. Providing data in this format and publication frequency would make NYSE Agg Lite more easily consumable by vendors and subscribers, especially for display purposes.

The Exchange proposes to offer NYSE Agg Lite through the Exchange's Liquidity Center Network (''LCN''), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange would also offer NYSE Agg Lite through the ICE Global Network (''IGN''), through which all other users and members access the Exchange's trading and execution systems and other proprietary market data products.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) [4] of the Act (''Act''), in general, and furthers the objectives of section 6(b)(5) [5] of the Act, 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, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of NYSE Agg Lite to those interested in receiving it.

The Exchange also believes this proposal is consistent with section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market data vendors and subscribers. The proposed rule change would benefit investors by facilitating their prompt access to the frequency-

[8] *See* Securities Exchange Act Release No. 99083, 88 FR 85964 (Dec. 11, 2023).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

based depth of book information contained in the NYSE Agg Lite market data feed.

The Exchange also believes that the proposed rule change is consistent with section 11(A) of the Act[6] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability of information with respect to quotations for and transactions in securities to brokers, dealers, and investors. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,[7] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. The NYSE Agg Lite market data feed would be accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data vendors are required by any rule or regulation to make this data available. Accordingly, vendors and subscribers can discontinue their use at any time and for any reason.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that NYSE Agg Lite is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS would itself further the Act's goals of facilitating efficiency and competition:

> Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[8]

In addition, NYSE Agg Lite removes impediments to and perfects the mechanism of a free and open market and a national market system by providing investors with alternative market data and would compete with similar market data products currently offered by the four U.S. equities exchanges operated by Cboe Exchange, Inc.—Cboe BZX Exchange, Inc. (''BZX''), Cboe BYX Exchange, Inc. (''BYX''), Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe EDGX Exchange, Inc. (''EDGX''), each of which offers a market data product called BZX Summary Depth, BYX Summary Depth, EDGA Summary Depth and EDGX Summary Depth, respectively (collectively, the ''Cboe Summary Depth'').[9] Similar to Cboe Summary Depth, NYSE Agg Lite can be utilized by vendors and subscribers to quickly access and distribute aggregated order book data. As noted above, NYSE Agg Lite, similar to Cboe Summary Depth, would provide aggregated depth per security, including the bid, ask and share quantity for orders received by NYSE, except unlike Cboe Summary Depth, which provides aggregated depth per security for up to five price levels, NYSE Agg Lite would provide aggregated depth per security for up to ten price levels on both the bid and offer sides of the NYSE limit order book. The proposed market data product is also similar to the NYSE Integrated Feed,[10] and Nasdaq TotalView.[11]

The Exchange notes that the existence of alternatives to the Exchange's proposed product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, as well as the continued availability of the Exchange's separate data feeds, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives as their individual business cases warrant.

The NYSE Agg Lite market data feed will help to protect a free and open market by providing additional data to the marketplace and by giving investors greater choices. In addition, the proposal would not permit unfair discrimination because the data feed would be available to all vendors and subscribers through both the LCN and IGN.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[12] 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. Because other exchanges already offer similar products, the Exchange's proposed NYSE Agg Lite will enhance competition. The NYSE Agg Lite will foster competition by providing an alternative to similar products offered by other exchanges, including the Cboe Summary Depth.[13] The NYSE Agg Lite market data feed would provide investors with a new option for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[14] Thus, the Exchange believes the proposed rule change is necessary to permit fair competition among national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

[6] 15 U.S.C. 78k–1.

[7] *See* 17 CFR 242.603.

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (Regulation NMS Adopting Release).

[9] *See* BZX Rule 11.22(m) BZX Summary Depth; BYX Rule 11.22(k) BYX Summary Depth; EDGA Rule 13.8(f) EDGA Summary Depth; and EDGX Rule 13.8(f) EDGX Summary Depth. The Cboe Summary Depth offered by BZX, BYX, EDGA and EDGX are each a data feed that offers aggregated two-sided quotations for all displayed orders for up to five (5) price levels and contains the individual last sale information, market status, trading status and trade break messages.

[10] The NYSE Integrated Feed provides a real-time market data in a unified view of events, in sequence, as they appear on the NYSE matching engine. The NYSE Integrated Feed includes depth of book order data, last sale data, and opening and closing imbalance data, as well as security status updates (*e.g.,* trade corrections and trading halts) and stock summary messages. *See also* Securities Exchange Act Release No. 74128 (January 23, 2015), 80 FR 4951 (January 29, 2015) (SR–NYSE–2015–03) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing the NYSE Integrated Feed Data Feed).

[11] Nasdaq TotalView displays the full order book depth on Nasdaq, including every single quote and order at every price level in Nasdaq-, NYSE-, NYSE American- and regional-listed securities on Nasdaq. *See https://www.nasdaq.com/solutions/nasdaq-totalview?_bt=659478569450&_bk=totalview&_bm=b&_bn=g&_bg=1446168280 50&utm_term=totalview&utm_campaign=&utm_source=google&utm_medium=ppc&gclid=EAIaIQobChMIsZqiorTS_wIV2Y5bCh2xxQdUEAAYASAAEgKlyfD_BwE.*

[12] 15 U.S.C. 78f(b)(8).

[13] *See supra,* note 9.

[14] *See supra,* note 8, at 37503.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSE–2024–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSE–2024–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSE–2024–12 and should be submitted on or before April 3, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

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BILLING CODE 8011–01–P

[17] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99691; File No. SR–NYSECHX–2024–08]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the NYSE Chicago Aggregated Lite Market Data Feed

March 7, 2024.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 27, 2024, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish the NYSE Chicago Aggregated Lite (''NYSE Chicago Agg Lite'') market data feed. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish the NYSE Chicago Agg Lite market data feed. The NYSE Chicago Agg Lite is a NYSE Chicago-only frequency-based depth of book market data feed of the NYSE Chicago's limit order book for up to ten (10) price levels for securities traded on the Exchange and for which the Exchange reports quotes and trades under the Consolidated Tape Association (''CTA'') Plan or the Nasdaq/UTP Plan. NYSE Chicago Agg Lite would be a compilation of limit order data that the Exchange would provide to vendors and subscribers. As proposed, the NYSE Chicago Agg Lite data feed would be updated no less frequently than once per second. The NYSE Chicago Agg Lite would include depth of book order data as well as security status messages. The security status message would inform subscribers of changes in the status of a specific security, such as trading halts, short sale restriction, etc.

The Exchange proposes to offer NYSE Chicago Agg Lite after receiving requests from vendors and subscribers that would like to receive the data described above in an integrated fashion at a pre-defined publication interval, in this case

updates no less than once per second. An aggregated data feed may provide greater efficiencies and reduce errors for vendors and subscribers that currently choose to integrate the above data into a single offering after receiving it from the Exchange through existing products and adjust the publication frequency based on a subscriber's needs. The Exchange believes that providing vendors and subscribers with the option to subscribe to a market data product that integrates a subset of data from existing products and where such aggregated data is published at a pre-defined interval, thus lowering bandwidth, infrastructure and operational requirements, would allow vendors and subscribers to choose the best solution for their specific business needs. The Exchange notes that publishing only the top ten price levels on both the bid and offer sides of the order book where such data is communicated to subscribers at a pre-defined interval would reduce the overall volume of messages required to be consumed by subscribers when compared to a full order-by-order data feed or a full depth of book data feed. Providing data in this format and publication frequency would make NYSE Chicago Agg Lite more easily consumable by vendors and subscribers, especially for display purposes.

The Exchange proposes to offer NYSE Chicago Agg Lite through the Exchange's Liquidity Center Network (''LCN''), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange would also offer NYSE Chicago Agg Lite through the ICE Global Network (''IGN''), through which all other users and members access the Exchange's trading and execution systems and other proprietary market data products.

The Exchange will file a separate rule filing to establish fees for NYSE Chicago Agg Lite. The Exchange will announce the implementation date of this proposed rule change by Trader Update, which, subject to the effectiveness of this proposed rule change, will be no later than the second quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)[4] of the Act (''Act''), in general, and furthers the objectives of section 6(b)(5)[5] of the Act, 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, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of NYSE Chicago Agg Lite to those interested in receiving it.

The Exchange also believes this proposal is consistent with section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market data vendors and subscribers. The proposed rule change would benefit investors by facilitating their prompt access to the frequency-based depth of book information contained in the NYSE Chicago Agg Lite market data feed.

The Exchange also believes that the proposed rule change is consistent with section 11(A) of the Act[6] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability of information with respect to quotations for and transactions in securities to brokers, dealers, and investors. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,[7] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. The NYSE Chicago Agg Lite market data feed would be accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data vendors are required by any rule or regulation to make this data available. Accordingly, vendors and subscribers can discontinue their use at any time and for any reason.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that NYSE Chicago Agg Lite is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS would itself further the Act's goals of facilitating efficiency and competition:

> Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[8]

In addition, NYSE Chicago Agg Lite removes impediments to and perfects the mechanism of a free and open market and a national market system by providing investors with alternative market data and would compete with similar market data products currently offered by the four U.S. equities exchanges operated by Cboe Exchange, Inc.—Cboe BZX Exchange, Inc. (''BZX''), Cboe BYX Exchange, Inc. (''BYX''), Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe EDGX Exchange, Inc. (''EDGX''), each of which offers a market data product called BZX Summary Depth, BYX Summary Depth, EDGA Summary Depth and EDGX Summary Depth, respectively (collectively, the ''Cboe Summary Depth'').[9] Similar to Cboe Summary Depth, NYSE Chicago Agg Lite can be utilized by vendors and subscribers to quickly access and distribute aggregated order book data. As noted above, NYSE Chicago Agg Lite, similar to Cboe Summary Depth, would provide aggregated depth per security, including the bid, ask and share quantity for orders received by NYSE Chicago, except unlike Cboe Summary Depth, which provides aggregated depth per security for up to five price levels, NYSE Chicago Agg Lite would provide aggregated depth per security for up to ten price levels on both the bid and offer

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78k–1.

[7] *See* 17 CFR 242.603.

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (Regulation NMS Adopting Release).

[9] *See* BZX Rule 11.22(m) BZX Summary Depth; BYX Rule 11.22(k) BYX Summary Depth; EDGA Rule 13.8(f) EDGA Summary Depth; and EDGX Rule 13.8(f) EDGX Summary Depth. The Cboe Summary Depth offered by BZX, BYX, EDGA and EDGX are each a data feed that offers aggregated two-sided quotations for all displayed orders for up to five (5) price levels and contains the individual last sale information, market status, trading status and trade break messages.

sides of the NYSE Chicago limit order book. The proposed market data product is also similar to the NYSE Chicago Integrated Feed,[10] and Nasdaq TotalView.[11]

The Exchange notes that the existence of alternatives to the Exchange's proposed product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, as well as the continued availability of the Exchange's separate data feeds, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives as their individual business cases warrant.

The NYSE Chicago Agg Lite market data feed will help to protect a free and open market by providing additional data to the marketplace and by giving investors greater choices. In addition, the proposal would not permit unfair discrimination because the data feed would be available to all vendors and subscribers through both the LCN and IGN.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[12] 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. Because other exchanges already offer similar products, the Exchange's proposed NYSE Chicago Agg Lite will enhance competition. The NYSE Chicago Agg Lite will foster competition by providing an alternative to similar products offered by other exchanges, including the Cboe Summary Depth.[13] The NYSE Chicago Agg Lite market data feed would provide investors with a new option for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[14] Thus, the Exchange believes the proposed rule change is necessary to permit fair competition among national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSECHX–2024–08 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–NYSECHX–2024–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSECHX–2024–08 and should be submitted on or before April 3, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

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[10] The NYSE Chicago Integrated Feed provides a real-time market data in a unified view of events, in sequence, as they appear on the NYSE Chicago matching engine. The NYSE Chicago Integrated Feed includes top of book and depth of book order data, last sale data, and security status updates (*e.g.,* trade corrections and trading halts) and stock summary messages. *See also* Securities Exchange Act Release No. 87389 (October 23, 2019), 84 FR 57904 (October 29, 2019) (SR–NYSECHX–2019–15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish the NYSE Chicago BBO, NYSE Chicago Trades and NYSE Chicago Integrated Feed Market Data Feeds).

[11] Nasdaq TotalView displays the full order book depth on Nasdaq, including every single quote and order at every price level in Nasdaq-, NYSE-, NYSE American- and regional-listed securities on Nasdaq. *See https://www.nasdaq.com/solutions/nasdaq-totalview?_bt=6594785694508_bk=totalview&_bm=b&_bn=g&_bg=144616828050&utm_term=totalview&utm_campaign=&utm_source=google&utm_medium=ppc&gclid=EAIaIQobChMIsZqiorTS_wIV2Y5bCh2xxQdUEAAYASAAEgKlyfD_BwE.*

[12] 15 U.S.C. 78f(b)(8).

[13] *See supra,* note 9.

[14] *See supra,* note 8, at 37503.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2024–0007]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections, and one new collection for OMB-approval.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974.

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235, Fax: 833–410–1631, Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAmain* by clicking on Currently under Review—Open for Public Comments and choosing to click on one of SSA's published items. Please reference Docket ID Number [SSA–2024–0007] in your submitted response.

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than May 13, 2024. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Request for Waiver of Overpayment Recovery and Request for Change in Overpayment Recovery Rate—20 CFR 404.502, 404.506–404.512, 416.550–416.558, 416.570–416.571—0960–0037. When Social Security beneficiaries and Supplemental Security Income (SSI) recipients receive an overpayment, they must return the extra money. These beneficiaries and recipients can use Form SSA–632–BK, Request for Waiver of Overpayment Recovery, to request a waiver from repaying their overpayment. Beneficiaries and recipients can also use Form SSA–634, Request for Change in Overpayment Recovery, to request a change to the monthly recovery rate of their overpayment. The respondents must provide financial information to help the agency determine how much the overpaid person can afford to repay each month. The respondents are individuals who are overpaid Social Security or SSI payments who are requesting: (1) a waiver of recovery of an overpayment, or (2) a lesser rate of withholding.

The Social Security Administration (SSA) is requesting public comments on this information collection. We encourage members of the public to provide their feedback and comments on the following matters outlined in the notice:

a. How can SSA most effectively ask questions related to determining whether or not a respondent is ''without fault'' in a manner that is minimally burdensome? Specifically, we are soliciting feedback on replacing the free-form response option, ''Tell us what you know about why the overpayment may have happened'' with a set of structured response options intended to reflect common reasons related to a failure to timely report a change to the agency. SSA is seeking comments on adding the following response options for which the respondent would be able to pick the choice that fits best:

- I did not know that I needed to report the change that SSA says caused the overpayment.
- I did not know about the change that SSA says caused the overpayment.
- I did not believe it was a significant enough change to report.
- I knew that I was supposed to report the change but chose not to report it.
- I thought I reported the change, or I tried to report the change but was unable to.
- I do not believe SSA is correct that there was a change.
- I forgot to report the change.
- I don't know.
- Other (this option would allow for a fill-in text box to include the reason).

b. Currently, Question #2, part 2 of the SSA–632 asks for the reason for requesting an overpayment waiver through a write-in text box. Please comment on other ways for us to request this information.

c. How can SSA revise the SSA–632, associated notice, or agency business processes to most effectively create a minimally burdensome collection of the questions we currently ask on the form?

d. How can SSA revise the form, associated notice, or agency business processes to most effectively minimize the burdensome collection requirements for individuals who have already pursued an appeal in good faith, but still have an overpayment as the result of receiving benefits under the statutory benefits continuation policy?

e. Please provide other suggestions for improving the design or communication on the form or associated notices to reduce burden on respondents.

f. Should SSA provide a mechanism on the form to allow for respondents to jointly request a reconsideration and a waiver on the same form?

g. Are there less burdensome ways SSA can ask respondents about the expenses they incur, or are there alternative ways for us to ask whether or not a claimant uses their income for ordinary and necessary living expenses?

h. Should SSA require documentation for expenses when an individual's alleged expenses are not unusually high?

i. In your experience, are there particular payment rules that, are particularly difficult to comply with or understand, resulting in overpayments?

j. Does SSA's burden estimate of 60 minutes accurately reflect the beginning-to-end time burden associated with this form? As stated in our documentation, the current time burden may include reviewing and understanding relevant notices; reading and understanding instructions; tracking down records and documentation; filling out the form; consulting with any third parties to help navigate form requirements (to include time spent by third-parties separate from the respondent's time spent); and any travel associated with the collection.

Your input on these items is valuable to us as we strive to improve our processes and better serve the public. In addition, we encourage you to comment on any other aspects of this information collection.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
SSA–632—Request for Waiver of Overpayment Recovery (If completing entire paper form, including the AFI authorization)	400,000	1	60	400,000	* $12.81	** 21	*** $6,917,400
SSA–634—Request for Change in Overpayment Recovery Rate (Completing paper form)	100,000	1	45	75,000	* 12.81	** 21	*** 1,409,100
Totals	500,000			475,000			*** 8,326,500

* We based this figure on the average DI payments based on SSA's current FY 2023 data (*https://www.ssa.gov/legislation/2023factsheet.pdf*).
** We based this figure on averaging both the average FY 2023 wait times for field offices and teleservice centers, based on SSA's current management information data.
*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. Development of Participation in a Vocational Rehabilitation or Similar Program—20 CFR 404.316(c), 404.337(c), 404.352(d), 404.1586(g), 404.1596, 404.1597(a), 404.327, 404.328, 416.1321(d), 416.1331(a)–(b), and 416.1338, 416.1402—0960–0282. State Disability Determination Services (DDS) determine if Social Security disability payment recipients whose disability ceased and who participate in vocational rehabilitation programs may continue to receive disability payments. To do this, DDSs needs information about the recipients, the types of program participation, and the services they receive under the rehabilitation program. SSA uses Form SSA–4290 to collect this information. The respondents are State employment networks, vocational rehabilitation agencies, or other providers of educational or job training services.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
SSA–4290–F5 (By mail)	2,400	1	40	1,600	* $18.52	** N/A	*** $30,372.80
SSA–4290–F5 (Telephone)	600	1	30	300	* 18.52	** N/A	*** 5,741.20
Totals	3,000			1,900			*** 36,114.00

* We based this figure on average Social and Human Service Assistant's hourly salary, as reported by Bureau of Labor Statistics.
** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. Application to Collect a Fee for Payee Services—20 CFR 404.2040a & 416.640a—0960–0719. Sections 205(j) and 1631(a) of the Act allow SSA to authorize certain organizational representative payees to collect a fee for providing payee services. Before an organization may collect this fee, they complete and submit Form SSA–445. SSA uses the information to determine whether to authorize or deny permission to collect fees for payee services. The respondents are private sector businesses, or State and local government offices, applying to become a fee-for-service organizational representative payee.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Private sector business	80	1	13	17	* $17.41	** $296
State/local government offices	10	1	10	2	* 17.41	** 35
Totals	90			19		** 331

* We based these figures on average Personal Care and Service Occupations hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes390000.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. Screen Pop—20 CFR 401.45—0960–0790. Section 205(a) of the Social Security Act requires SSA to verify the identity of individuals who request a record or information pertaining to themselves, and to establish procedures for disclosing personal information. SSA established Screen Pop, an automated telephone process, to speed up verification for such individuals. Accessing Screen Pop, callers enter their Social Security number (SSN) using their telephone keypad or speech technology prior to speaking with a National 800 Number Network (N8NN) agent. The automated Screen Pop application collects the SSN and routes it to the ''Start New Call'' Customer Help and Information (CHIP) screen. Functionality for the Screen Pop application ends once the SSN connects to the CHIP screen and the SSN routes to the agent's screen. When the call connects to the N8NN agent, the agent can use the SSN to access the caller's record as needed. The respondents for this collection are individuals who contact SSA's N8NN to speak with an agent.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
Screen Pop	51,933,760	1	1	865,563	* $29.76	** 17	*** $463,664,609

* We based this figure on average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-00000*).

** We based this figure on the average FY 2023 wait times for teleservice centers, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete.*

5. Electronic Consent Based Social Security Number Verification—20 CFR 400.100—0960–0817. The electronic Consent Based Social Security Number Verification (eCBSV) is a fee-based SSN verification service which allows permitted entities (a financial institution as defined by Section 509 of the Gramm-Leach-Bliley Act. 42 U.S.C. 405b(b)(4), Public Law 115–174, Title II, 215(b)(4), or service provider, subsidiary, affiliate, agent, subcontractor, or assignee of a financial institution), to verify that an individual's name, date of birth (DOB), and SSN match our records based on the SSN holder's signed, including electronic consent in connection with a credit transaction or any circumstance described in section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

Background

SSA established the eCBSV service in response to section 215 of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (Banking Bill), Public Law 115–174. Permitted entities are able to submit the SSN, name, and DOB of the number holder in connection with a credit transaction, or any circumstances described in Section 604 of the Fair Credit Reporting Act to SSA for verification via an application programming interface. eCBSV allows SSA to verify permitted entities who submit SSN, name, and DOB Matches, or does not match the data contained in SSA's records. After obtaining number holders' consents, a permitted entity submits the names, DOBs, and SSNs of number holders to the eCBSV service. SSA matches the information against our Master File, using SSN, name, and DOB. The eCBSV service responds in real time with a match, or no match indicator (and an indicator if our records show that the number holder died). SSA does not provide specific information on what data elements did not match, nor does SSA provide any SSNs or other identifiable information. The verification does not authenticate the identity of the number holders or conclusively prove the number holders we verify are who they are claiming to be.

Consent Requirements

Under the eCBSV process, the permitted entities does not submit the number holder's consent forms to SSA. SSA requires each permitted entity to retain a valid consent for each SSN verification request submitted for a period of 5 years. SSA permits the permitted entities to retain the consent in an electronic format, and SSA requires a wet or electronic signature on the consent. Permitted entities may request verification of a number holder's SSN on behalf of a financial institution pursuant to the terms of the Banking Bill, the user agreement between SSA and the PE, and the SSN Holder's consent. The permitted entity ensures the financial institution agrees to the terms in the user agreement to only use the SSN verification for the purpose stated in the consent, and prohibits public entities from further using or disclosing the SSN verification. This relationship is subject to the terms in the user agreement between SSA and the PE.

Compliance Review

SSA requires each permitted entity to undergo compliance reviews which are conducted by an SSA approved certified public accountant (CPA). The compliance reviews ensure the permitted entities meet all terms and conditions of the user agreement, including obtaining valid consent from number holders. The permitted entities pays all compliance review costs through the eCBSV fees. In general, SSA requests annual reviews with additional reviews as necessary. The CPA follows review standards established by the American Institute of Certified Public Accountants and contained in the Generally Accepted Government Auditing Standards (GAGAS).

Initially, SSA only allowed 10 permitted entities access to use the service, with an estimated 307,000,000 requests. Now, with the open enrollment, eCBSV is available to all interested permitted entities, as defined in Section 215 of the Banking Bill with an estimated annual 77,000,000 requests. The respondents are permitted entities; members of the public who consent to SSN verifications; and CPAs

who provide compliance review services.

Type of Request: Revision of an OMB-approved information collection.

Requirement	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
(a) People whose SSNs SSA will verify—Reading and Signing	76,000,000	1	3	3,800,000	*$12.81	**$48,678,000
(a) Sending in the verification request, calling our system, getting a response	76,000,000	1	1	1,266,667	*41.39	**52,427,347
(c) CPA Compliance Review and Report ***	21	1	4,800	1,680	*41.70	**70,056
Totals	152,000,021			5,068,347		**101,175,403

* We based these figures on average Business and Financial operations occupations (*https://www.bls.gov/oes/current/oes130000.htm*), and Accountants and Auditors hourly salaries (*https://www.bls.gov/oes/current/oes132011.htm*), as reported by Bureau of Labor Statistics data, and average DI payments, as reported in SSA's disability insurance payment data (*https://www.ssa.gov/legislation/2023factsheet.pdf*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

*** The enrollment process occurs automatically through the eCBSV Customer Connection, and entails providing consent for SSA to verify the EIN; electronically signing the eCBSV User Agreement, and the permitted entities certification; selecting their annual tier level; and linking to *pay.gov* to make payment for services.

**** There will be one CPA firm (an SSA-approved contractor) to conduct compliance reviews and prepare written reports of findings on the 113 permitted entities.

Cost Burden

The public cost burden depends on the number of permitted entities using the service and the annual transaction volume. SSA based the current tier fee schedule below on 20 participating public entities in fiscal year (FY) 2023 submitting an anticipated annual volume of 65 million transactions. For FY 2024, we are maintaining the current tier structure, based our analysis, which estimated 20 participating public entities with an anticipated annual volume of 52 million. Since our analysis and initial estimate, one permitted entity noted the potential for a significant increase in volume in FY 2024. The total cost for developing and operating the service is $62 million through FY 2023. Of this amount, $37 million remains unrecovered/unreimbursed. The current subscription tier structure and associated fees intend to recover these costs over a four-year period, assuming projected enrollments and transaction volumes meet these projections. SSA uses the fee to allocate for forecasted systems and operational expenses; agency oversight; and overhead necessary to sustain the service.

eCBSV TIER FEE SCHEDULE

Tier	Annual transaction threshold	Annual fee
1	Up to 10,000 (1–10,000)	$7,000
2	Up to 200,000 (10,001–200,000)	130,000
3	Up to 1 million (200,001–1 million)	630,000
4	Up to 2.5 million (1,000,001–2.5 million)	1,500,000
5	Up to 5 million (2,500,001–5 million)	3,000,000
6	Up to 10 million (5,000,001–10 million)	4,500,000
7	Up to 15 million (10,000,001–15 million)	5,000,000
8	Up to 20 million (15,000,001–20 million)	6,250,000
9	Up to 25 million (20,000,001–25 million)	7,250,000
10	Up to 75 million (25,000,001–200 million)	8,250,000

SSA calculates fees based on forecasted systems and operational expenses, agency oversight, overhead, and Certified Public Accountant audit contract costs.

Section 215(h)(1)(B) of the Banking Bill requires that the Commissioner shall ''periodically adjust'' the price paid by users to ensure that amounts collected are sufficient to fully offset the costs of administering the eCBSV system. SSA will monitor costs incurred to provide eCBSV services on at least and annual basis, and will revise the tier fee schedule accordingly. SSA will notify permitted entities of the tier fee schedule in effect at the renewal of the eCBSV user agreements; when a permitted entity begins a new 365-day agreement period; and via notice in the **Federal Register**. SSA will govern permitted entities renewals by the tier in effect at the time of renewal.

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than April 12, 2024. Individuals can obtain copies of these OMB clearance packages by writing to the *OR.Reports.Clearance@ssa.gov.*

Employee Work Activity Questionnaire—20 CFR 404.1574(a)(1)–(3)—0960–0483. SSDI beneficiaries and SSI recipients qualify for payments when a verified physical or mental impairment prevents them from working. If disability claimants attempt

to return to work after receiving payments, but are unable to continue working, they submit Form SSA–3033, Employee Work Activity Questionnaire, so SSA can evaluate their work attempt. In addition, SSA uses this form to evaluate unsuccessful subsidy work and determine applicants' continuing eligibility for disability payments. The respondents are employers of SSDI beneficiaries and SSI recipients who unsuccessfully attempted to return to work.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
SSA–3033 Phone	5,000	1	15	1,250	$59.07	19	*** $167,345
SSA–3033 Returned via mail	10,000	1	15	2,500	59.07		*** 147,675
Totals	15,000			3,750			315,020

* We based this figure on average general and operations manager's hourly salary, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes111021.htm*).

** We based this figure on the average FY 2023 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: March 8, 2024.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2024–05296 Filed 3–12–24; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 12356]

60-Day Notice of Proposed Information Collection: Reta Jo Lewis Local Diplomat Program—City Applications

ACTION: Notice of request for public comment.

SUMMARY: The Department of State (the Department) is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to May 13, 2024.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2024–0005'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: subnational@state.gov.*

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument, and supporting documents, to Sharmeen Khan, who may be reached on 202–647–2615 or at *subnational@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Reta Jo Lewis Local Diplomat Program—Local Offices Application.
- *OMB Control Number:* 1405–XXXX.
- *Type of Request:* New Collection.
- *Originating Office:* E/SDU.
- *Form Number:* DS–4320.
- *Respondents:* Local government offices, including city, state, and county offices.
- *Estimated Number of Respondents:* 2,000.
- *Estimated Number of Responses:* 2,000.
- *Average Time per Response:* 0.5 hours.
- *Total Estimated Burden Time:* 1,000 hours.
- *Frequency:* Once.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- 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.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Subnational Diplomacy Unit under the Department runs the Reta Jo Lewis Local Diplomat Program, which details a Foreign Service Officer or Civil Service employee to a local office, including a city, state, or county, for a year. The selection of local offices for this program must be competitive to provide a fair opportunity to all local offices that are interested in participating in the program. Therefore, to select local offices to participate in the program, the Subnational Diplomacy Unit must collect applications from local offices interested in the program.

Methodology

The form will be emailed to local governments. After completion by the local governments, the form will be submitted via Microsoft Forms to the Department.

Nina L. Hachigian,

Special Representative for City and State Diplomacy, Subnational Diplomacy Unit, Department of State.

[FR Doc. 2024–05278 Filed 3–12–24; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice: 12313]

Determination Under Section 7014(b) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2022

Pursuant to the authority vested in me by section 7014(b) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2022 (Div K, Pub. L. 117–103) (FY 2022 SFOAA), and Department of State Delegation of Authority 513, I hereby determine that a significant change in circumstances makes it unlikely that the following funds specifically designated for particular programs or activities by the FY 2022 SFOAA or any other act can be obligated during the original periods of availability of such funds: $45,050,000 in development assistance account; $11,637,500 in the global health programs-USAID account; $11,190,193 in the nonproliferation, anti-terrorism, demining, and related programs account; and $2,128,660 in the peacekeeping operations (PKO) account. This determination shall be published in the **Federal Register** and, along with the accompanying 7014(b) Memorandum of Justification, shall be transmitted to Congress.

Dated: September 12, 2023.

Richard Verma,

Deputy Secretary of State for Management and Resources, Department of State.

[FR Doc. 2024–05343 Filed 3–12–24; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent of Waiver With Respect to Land; Grand Rapids/Itasca County Airport, Grand Rapids, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is considering a proposal to change 4.31 acres of airport land from aeronautical use to non-aeronautical use and to authorize the sale of airport property located at Grand Rapids/Itasca County Airport, Grand Rapids, MN. The aforementioned land is not needed for aeronautical use. The subject property is a wooded area located outside of the airport perimeter fence on the west side of Runway 16/34. The proposed use of the property is to be sold to a private company for industrial use development.

DATES: Comments must be received on or before April 12, 2024.

ADDRESSES: All requisite and supporting documentation will be made available for review by appointment at the FAA Dakota-Minnesota Airports District Office, Jeremy McLeod, Program Manager, 2301 University Dr., Bldg. 23B, Bismarck, ND 58504. Telephone: (701) 323–7380.

Written comments on the Sponsor's request may be submitted using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions for sending your comments electronically.
- *Mail:* Jeremy McLeod, Program Manager, Federal Aviation Administration, Dakota-Minnesota Airports District Office, 2301 University Dr., Bldg. 23B, Bismarck, ND 58504.
- *Hand Delivery:* Deliver to mail address above between 8 a.m. and 5 p.m. Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeremy McLeod, Program Manager, Federal Aviation Administration, Dakota-Minnesota Airports District Office, 2301 University Dr., Bldg. 23B, Bismarck, ND 58504. Telephone Number: (701) 323–7380.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The subject property makes up a portion of airport Parcel 45. Parcel 45 is 4.99 acres and was acquired by the airport sponsor on May 5, 1978 with FAA Airport Development Aid Program (ADAP) grant number 6–27–0037–02 funding. A 0.68-acre portion of the parcel is used for the airport perimeter road and fence. The airport will retain this portion of Parcel 45. The remaining 4.31-acre portion of the parcel to be sold is vacant wooded land and does not serve an aeronautical use. The airport plans to sell the land at fair market value to a privately held retail company for industrial use.

The disposition of proceeds from the sale of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Grand Rapids/Itasca County Airport, Grand Rapids, MN, from federal land covenants, subject to a reservation for continuing right of flight as well as restrictions on the released property as required in FAA Order 5190.6B section 22.16. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Legal Description: That part of the East 330.00 feet of the South Half of the Southeast Quarter of the Northeast Quarter of section 33, Township 55 North, Range 25 West, Itasca County, Minnesota, lying southwesterly of the following described line:

Commencing at the southeast corner of said Southeast Quarter of the Northeast Quarter; thence on an assigned bearing of North 01 degrees 20 minutes 08 seconds West, along the east line of said Southeast Quarter of the Northeast Quarter, a distance of 151.91 feet to the point of beginning of the line herein described; thence North 14 degrees 18 minutes 12 seconds West 523.41 feet to the north line of the South Half of the Southeast Quarter of the Northeast Quarter and said line terminating thereat.

Issued in Minneapolis, MN, on March 7, 2024.

E. Lindsay Terry,

Manager, Dakota-Minnesota Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2024–05248 Filed 3–12–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0143]

Request for Information: Drivers' Leasing Agreements for Commercial Motor Vehicles (CMVs)

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

ACTION: Notice; extension of comment period.

SUMMARY: FMCSA extends the comment period for its February 16, 2024, notice requesting information from the public, including commercial motor vehicle drivers, to assist the Agency's Truck Leasing Task Force in reviewing such leases to identify terms and conditions that may be unfair to drivers. FMCSA extends the comment period until April 2, 2024.

DATES: The comment period for the request for information published

February 16, 2024, at 89 FR 12411, is extended. Comments should be received on or before April 2, 2024.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2023–0143 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov/docket/FMCSA-2023-0143/document.* Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, West Building, Ground Floor, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.
- *Submissions Containing Confidential Business Information (CBI):* Brian Dahlin, Chief, Regulatory Evaluation Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

To avoid duplication, please use only one of these four methods. See the ''Confidential Business Information'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy and Deputy Designated Federal Officer, Truck Leasing Task Force (TLTF), Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 360–2925; *TLTF@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

A. Submitting Comments

If you submit a comment, please include the docket number for this request for information (RFI) (FMCSA–2023–0143), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2023-0143/document,* click on this RFI, click ''Comment,'' and type your comment into the text box on the following screen.

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

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the RFI contain commercial or financial information that is customarily treated as private, that you actually treat as private, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the RFI. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Analysis Division, Office of Policy, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this RFI as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2023-0143/document* and choose the document to review. To view comments, click this RFI, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

DOT posts comments received, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.* The comments are posted without edit and are searchable by the name of the submitter.

I. Background

On February 16, 2024, FMCSA published a notice in the **Federal Register** requesting information from the public, including commercial motor vehicle (CMV) drivers, to assist the Agency's Truck Leasing Task Force (TLTF) in reviewing such leases to identify terms and conditions that may be unfair to drivers.

The Owner-Operator Independent Drivers Association (OOIDA) filed a comment to the public docket requesting that the comment period be extended. OOIDA stated:

This will give drivers and other members of the public sufficient time to collect and submit leasing information. We also believe extending the comment period will allow feedback from OOIDA members and other drivers who will be attending the Mid-America Trucking Show that will be held March 21st through 23rd in Louisville, Kentucky.

FMCSA believes it appropriate to extend the March 18, 2024, deadline to provide interested parties additional time to submit responses to the docket. Therefore, FMCSA extends the comment period until April 2, 2024.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–05342 Filed 3–12–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2020–0038]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on December 20, 2023, and February 29, 2024, the City of San Clemente, California, (the City) and the Southern California Regional Rail Authority (Metrolink) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations

contained at 49 CFR part 222 (Use of Locomotive Horns at Public Highway-Rail Grade Crossings). The relevant Docket Number is FRA–2020–0038.

Specifically, the City and Metrolink (Petitioners) jointly seek relief from the requirements of 49 CFR 222.59(a)(1), to continue use of a Pedestrian Audible Warning System (PAWS), which is similar to a wayside horn, when approaching seven highway-rail grade crossings, instead of a locomotive horn. Petitioners also request to extend relief from certain provisions of 49 CFR part 222, appendix E (Paragraphs 4 and 6), to allow a minimum sound level of 80 dB(A) and direction of the PAWS. The seven crossings that are the subject of this request are:

- Dije Court—USDOT Number 922847D—MP 203.95—pedestrian—3 PAWS
- El Portal—USDOT Number 922848K—MP 204.04—pedestrian—2 PAWS
- Corto Lane—USDOT Number 026977D—MP 204.56—pedestrian—3 PAWS
- Pier Service Road—USDOT Number 026997P—MP 204.73—private—4 PAWS
- T Street—USDOT Number 922849S—MP 205.16—pedestrian—3 PAWS
- Lost Winds—USDOT Number 922850L—MP 205.56—pedestrian—2 PAWS
- Calafia—USDOT Number 026637S—MP 206.00—pedestrian—2 PAWS

In support of its request, Petitioners submitted maintenance, communication, and malfunction/response plans for the PAWS.

In its February 26, 2024, addendum, Petitioners note their plans to augment the existing fencing system along ''the beach trail from Mile Post 203.71 . . . to Mile Post 206.00.'' They explain that the plan ''is in response to the current deficiency in fencing elevation along certain portions of the trail and is intended to improve the public safety of the area.''

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by May 13, 2024 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2024–05282 Filed 3–12–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2007–28454]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on January 23, 2024, and February 13, 2024, Union Pacific Railroad Company (UPRR) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232 (Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices). The relevant Docket Number is FRA–2007–28454.

Specifically, UPRR requests to extend its existing waiver in this docket, which provides conditional relief from the requirements for performing the single car air brake test (SCABT) as prescribed in 49 CFR 232.305(b)(2), *Single car air brake tests.* The relief allows UPRR to replace non-FRA condemnable wheelsets on railcars as part of an in-train wheelset replacement program at North Platte, Nebraska; South Morrill, Nebraska; and Roseville, California, without the need to also perform the SCABT as required, if the car has not received a SCABT within the previous 12 months.

In support of its request, UPRR states that the in-train repair ''wheel change outs have allowed for a reduced stress state[,] resulting in fewer derailments attributed to broken rails, joint bars, and other track infrastructure deterioration.'' UPRR also asserts that there has been a ''41% reduction in wheel, axle, and bearing related incidents'' on UPRR.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by May 13, 2024 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2024–05283 Filed 3–12–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2024–0029]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on February 12, 2024, Strasburg Rail Road Company (SRC) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 240 (Qualification and Certification of Locomotive Engineers). FRA assigned the petition Docket Number FRA–2024–0029.

Specifically, SRC requests relief from § 240.201, which requires that only certified persons operate locomotives and trains. The relief would allow noncertified persons to operate a historic locomotive as part of a visitor experience program, under the supervision of qualified personnel. In support of its petition, SRC notes that the relief would only apply to persons participating in the program, and that participants would be 18 years of age or older and under the direct supervision of a certified and qualified locomotive engineer. Further, all movements would take place during daylight hours and at restricted speed on approximately one mile of track, and no public grade crossings will be traversed.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by May 13, 2024 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2024–05280 Filed 3–12–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2021–0109; Notice No. 2023–16]

Hazardous Materials: Frequently Asked Questions—Training Requirements

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

ACTION: Notice.

SUMMARY: On March 22, 2022, PHMSA announced an initiative to convert historical letters of interpretation (LOI) applicable to the Hazardous Materials Regulations (HMR) that have been issued to specific stakeholders into broadly applicable frequently asked questions (FAQ). On December 9, 2022, PHMSA published the first set of FAQ regarding applicability of the HMR. On August 18, 2023, PHMSA published the second set of FAQ regarding incident reporting. Today's notice contains the third set of FAQ regarding training requirements.

DATES: Interested persons are invited to submit comments on or before April 12, 2024. Comments received after that date will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by the Docket Number PHMSA–2021–0109 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

Instructions: All submissions must include the agency name and Docket Number (PHMSA–2021–0109) for this notice. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public. 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.*

Confidential Business Information (CBI): CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (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 is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as ''CBI.'' Please mark each page of your submission containing CBI as ''PROPIN.'' Submissions containing

CBI should be sent to Arthur Pollack, Standards and Rulemaking Division, 202–366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary that PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this notice.

FOR FURTHER INFORMATION CONTACT: Arthur Pollack, Standards and Rulemaking Division, 202–366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On March 22, 2022, PHMSA [1] announced an initiative [2] to convert historical LOI applicable to the HMR [3] that have been issued to specific stakeholders into broadly applicable FAQ to facilitate better public understanding and awareness of the HMR. In that initial set of FAQ, PHMSA also requested comment on the initiative and solicited input on the prioritization of future sets of FAQ. FAQ are not substantive rules themselves and do not create legally enforceable rights, assign duties, or impose new obligations not otherwise contained in the existing regulations and standards. Instead, FAQ are intended as an aid to the regulated community to better understand how to comply with the regulations. An individual who is able to demonstrate that it is acting in accordance with the FAQ, however, is likely to be able to demonstrate compliance with the relevant regulations. If an individual chooses not to follow the FAQ, the individual must be able to demonstrate that its conduct is in accordance with the regulations.

II. Purpose of the FAQ Initiative

This initiative provides additional value to PHMSA's Online Code of Federal Regulations (oCFR) tool.[4] The oCFR tool is an interactive web-based application that allows users to navigate with a single click between all content, including LOI, connected to an HMR citation. The oCFR tool includes the ability to sort, filter, and export search results. Upon completion of this initiative, PHMSA's Office of Hazardous Materials Safety (OHMS) will be able to achieve efficiencies for other more complex or novel requests for LOI and devote resources to other hazardous materials transportation safety projects. This initiative will also allow resources to be made available for other improvement-related operations, such as petitions for rulemakings, public outreach and engagement, and economically beneficial regulatory and policy improvements. In the section of this notice titled ''Frequently Asked Questions: Hazmat Training Requirements,'' PHMSA is publishing its third set of FAQ developed under this initiative.

III. Frequently Asked Questions

Hazardous Materials (Hazmat) Training Requirements

The requirements for hazmat training are outlined under Subpart H to Part 172 of the HMR—specifically, §§ 172.700 through 172.704.[5] Therefore, as noted above, to facilitate better public understanding and awareness of the HMR, the FAQ pertaining to hazmat training are as follows:

1. Question: What are the hazardous materials training requirements?

Answer: A hazmat employee, defined under § 171.8, is subject to training under § 172.700. Each hazmat employer must train and test their hazmat employees, certify their training, and develop and retain records of current training. The HMR requires a systematic training program that ensures a hazmat employee has familiarity with the general provisions of the HMR; is able to recognize and identify hazardous materials; has knowledge of specific requirements of the HMR applicable to functions performed by the employee; and has knowledge of emergency response information, self-protection measures, and accident prevention methods and procedures.

2. Question: What is required as part of a complete hazmat training program?

Answer: Section 172.704 requires that hazmat training include:

- general awareness/familiarization training;
- function-specific training;
- safety training;
- security awareness training; and
- in-depth security training if a security plan is required.

Additionally, § 172.700 requires hazmat employees receive modal-specific training for the individual modes of transportation the employee operates.

This training can be performed by the hazmat employer, by the hazmat employee, or by a contracted training service so long as all the training requirements in Subpart H to Part 172 are met.

3. Question: Who is considered a ''hazmat employee?''

Answer: A hazmat employee is defined in § 171.8 as any person who—in the course of employment—directly affects hazmat transportation safety and includes, but is not limited to, loading, unloading, or handling hazmat; inspecting hazmat packaging; preparing hazmat shipments; operating vehicles used to transport hazmat; and anyone responsible for hazmat transportation safety.

4. Question: Who is considered a ''hazmat employer?''

Answer: A hazmat employer is defined in § 171.8 as a person who uses one or more of its hazmat employees to transport hazmat in commerce; to cause hazmat to be transported in commerce; or designs, manufactures, fabricates, inspects, marks, maintains, reconditions, tests, or repairs containers, drums, or packagings as qualified for use in the transportation of hazardous materials.

5. Question: Do the HMR allow a hazmat employee to self-train?

Answer: Yes. Hazmat employees may self-train, provided the general awareness/familiarization training, function-specific training, safety training, security awareness training, in-depth security training, testing, recordkeeping, and certification requirements specified in § 172.704 are met.

6. Question: What training materials and resources are available from PHMSA?

Answer: PHMSA's Outreach and Training Branch offers training publications, videos, and brochures, which can be found at: *https://*

[1] Hazardous Materials: Frequently Asked Questions-Applicability of the Hazardous Material Regulations. 87 FR 16308 (March 22, 2022), available at: *https://www.regulations.gov/document/PHMSA-2021-0109-0001.*

[2] Hazardous Materials: Frequently Asked Questions-Applicability of the Hazardous Material Regulations (Dec. 9, 2022), available at: *https://www.regulations.gov/document/PHMSA-2021-0109-0013;* Hazardous Materials: Frequently Asked Questions-Incident Reporting. 88 FR 56702 (August 18, 2023), available at: *https://www.regulations.gov/document/PHMSA-2021-0109-0014.*

[3] 49 CFR parts 171–180.

[4] PHMSA's Online CFR (oCFR), available at: *https://www.phmsa.dot.gov/standards-rulemaking/hazmat/phmsas-online-cfr-ocfr.*

[5] *https://www.ecfr.gov/current/title-49/part-172/subpart-H.*

www.phmsa.dot.gov/training/hazmat/hazardous-materials-outreach-engagement.

7. Question: Is a hazmat trainer required to have a certification or minimum level of training?

Answer: No. PHMSA does not specify or require minimum qualifications for hazmat trainers. A trainer needs to be able to convey the training requirements under § 172.704.

8. Question: What documentation or recordkeeping is required for hazardous materials training?

Answer: Hazmat employers must keep training records for each hazmat employee in accordance with § 172.704(d). Compliance with recordkeeping requirements can be achieved in many ways (*e.g.,* certificate, electronic, or even written paperwork) and could involve partnerships with any organization offering training that meets the needs of the hazmat employer. The training records must include the following information:

- the hazmat employee's name;
- date of the most recently completed training;
- information about the training materials;
- name and address of the trainer; and
- a certification that the hazmat employee has been trained and tested in accordance with the HMR.

Regardless of who performs the training or generates the records, the hazmat employer is ultimately responsible for compliance with the recordkeeping requirements of § 172.704(d).

9. Question: Is testing of hazmat employees—for example, a test or exam—required as part of a training program?

Answer: Yes. While the HMR do not prescribe detailed test procedures for hazmat employees, some type of test or exam is required. The purpose of testing is to ensure that each hazmat employee has been trained on appropriate areas of responsibility and can perform their assigned duties in compliance with the HMR. (See § 172.702; see also § 172.704.) Any method of testing that achieves this purpose is acceptable. No specific testing document is required.

Although the requirements in § 172.702(d) do not state that a hazmat employee must ''pass'' a test, a hazmat employee must be trained in accordance with the applicable HMR and may only be certified in those areas in which the hazmat employee can successfully perform their assigned duties. Employees may be tested on the training requirements specified in § 172.704 by any appropriate means.

10. Question: May an employee successfully take a test and have the hazmat training or recurrent training requirement waived?

Answer: No. An employee may not take and pass an exam, and then have the hazmat training or the recurrent training requirement waived. Hazmat training and recurrent training must cover the primary areas as specified under the training requirements in § 172.704, *i.e.,* general awareness/familiarization training, function-specific training, safety training, security awareness training, and in-depth security training (if applicable).

11. Question: How often must a hazmat employee be trained?

Answer: In accordance with § 172.704(c)(2), a hazmat employee must receive the required training at least once every three years.

12. Question: If an employee's job function changes, and new hazmat functions are performed or PHMSA regulations are amended, is further training required?

Answer: Yes. A hazmat employer must ensure that each hazmat employee is thoroughly instructed in the requirements that apply to functions performed by that employee. (See § 172.702(b).) Section 172.704(c)(1) requires that a new hazmat employee or a hazmat employee who changes job functions must complete their hazmat training within 90 days after employment or job function change. However, they may perform the job functions prior to the completion of training under the direct supervision of a properly trained and knowledgeable hazmat employee. When PHMSA adopts a new regulation or changes an existing regulation that relates to a function performed by a hazmat employee, the hazmat employee must be instructed in the new or revised function-specific requirements as soon as necessary based on the new requirement's compliance timeline without regard to the three-year training cycle.

13. Question: How does a hazmat employer determine what function-specific training is required under § 172.704?

Answer: Function-specific training is specific to the function(s) for which the hazmat employee is responsible. The hazmat employer must determine what tasks the hazmat employee is responsible for that are directly regulated under the HMR, and then provide the necessary training in accordance with Subpart H to Part 172.

14. Question: Is online, computer-based, and virtual training authorized under the HMR?

Answer: Yes. A hazmat employer may use any type of training method, including forms of digital training (*e.g.,* online, computer-based, and virtual training programs), that ensures each hazmat employee receives general awareness/familiarization training, function-specific training, safety training, security awareness training, and in-depth security training. (See § 172.704; see also § 172.702.) The hazmat employer must also ensure that testing, recordkeeping, and certification requirements as specified in § 172.704 *are met.*

15. Question: Can previously completed Occupational Safety and Health Administration (OSHA), U.S. Environmental Protection Agency (EPA), or other required safety training substitute for hazmat training?

Answer: Training conducted to comply with the hazard communication programs required by OSHA, EPA, or training programs required by other federal or international agencies may be used to satisfy portions of the training requirements set forth in Subpart H to Part 172.

16. Question: What are the penalties for violation of the requirements of the HMR, such as training?

Answer: A hazmat employer must ensure that each of its hazmat employees is trained in accordance with the requirements prescribed under Subpart H to Part 172. (See § 172.702.) A person who knowingly violates a requirement of the HMR or the Federal Hazmat Transportation Law, 49 U.S.C. 5101 *et seq.,* may be liable for a civil penalty of not more than $ 99,756.[6] For a violation that results in death, serious illness, severe injury, or substantial property destruction, the maximum penalty is increased to $ 232,762.[6] For violations related to training, there is a minimum penalty of $ 601. (See § 107.329.) Maximum and minimum penalty limitations are updated annually to adjust for inflation.

[6] As of December 28, 2023, *https://www.federalregister.gov/documents/2023/12/28/2023-28066/revisions-to-civil-penalty-amounts-2024.* Annual updates to civil penalty amounts are codified at § 107.329.

17. Question: Who is responsible for the required hazmat training of a subcontractor's employees?

Answer: Under § 171.8, a subcontractor's hazmat employee is a hazmat employee. In accordance with § 172.702(a), the subcontractor, as the hazmat employer for its hazmat employees, is responsible for ensuring that each of its hazmat employees are trained in accordance with Subpart H to Part 172. However, § 172.702(c) provides flexibility on who can provide the training. The training may be provided by the hazmat employer or by some other public or private source.

18. Question: Is a person located outside the United States who offers a shipment from a foreign location for transportation in the United States—in accordance with an international standard recognized by the HMR—subject to the training requirements in Subpart H to Part 172?

Answer: Yes. § 171.22 prescribes additional requirements for the use of international standards for shipments offered for transportation or transported in the United States and includes shipments originating in a foreign location and transported to the United States. Under § 171.22(g)(2), the training requirements in Subpart H to Part 172, including function specific training, must be satisfied. Training conducted, in accordance with § 171.22, to comply with the international standards may be used to satisfy the training requirements set forth in § 172.704, to the extent that such training addresses the training components specified in § 172.704(a). It is not necessary to duplicate training. However, the hazmat employer must provide additional training to employees performing covered functions for any training components required by the HMR that were not previously addressed.

19. Question: Is a driver required to have hazmat training in accordance with Subpart H to Part 172 if the driver has a hazmat endorsement on a CDL?

Answer: Yes. In accordance with § 177.800(c), each driver who is a hazmat employee is subject to the training requirements in Subpart H to Part 172, and the driver training requirements in § 177.816, regardless of whether a hazmat endorsement is required. However, the training required to obtain a hazmat endorsement may be used to satisfy some of the training requirements of the HMR to the extent that such training addresses the training components of § 172.704. (See § 177.816(c).)

IV. Future FAQ Topics

With the completion of this set of FAQ specific to training requirements, PHMSA will begin consideration for its next set of FAQ based on public input received. As such, PHMSA will continue concurrent work on future FAQ notices and subsequent topics may include FAQ pertaining to classification, hazard communication, hazardous substances, hazardous wastes, modal-specific requirements, or packaging.

Issued in Washington, DC, on March 7, 2024, under authority delegated in 49 CFR 1.97.

William S. Schoonover,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2024–05268 Filed 3–12–24; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2022–0127 (Notice No. 2023–09)]

Hazardous Materials: Clarification of Applications for Special Permits Submitted in the Public Interest

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

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to inform interested parties on how PHMSA evaluates and determines whether a special permit can be considered consistent with the public interest. This notice outlines the criteria PHMSA used to evaluate special permit applications on the basis of public interest.

FOR FURTHER INFORMATION CONTACT: Don Burger, Standards and Rulemaking Division, 202–366–4314, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

PHMSA is responsible for regulations to ensure the safe transport of hazardous materials. The Hazardous Materials Regulations (HMR) have many performance-oriented regulations that provide the regulated community some flexibility in meeting safety requirements. Even so, not every transportation situation can be anticipated and addressed by the current regulations. The hazardous materials community develops new materials, technologies, and innovative ways to move hazardous materials safely. Such innovation strengthens our economy, and some new technologies and operational techniques may enhance safety.

In order to accommodate and encourage continued development and innovation in the safe transport of hazardous materials, PHMSA is authorized to issue variances from the HMR via special permits, which set forth alternative requirements to those currently in the HMR. Special permits provide a mechanism for applying new technologies, promoting increased transportation efficiency and productivity, and ensuring global competitiveness without compromising safety. In addition, special permits enable the hazardous materials industry to integrate new products and technologies into production and the transportation stream safely, quickly, and effectively.

The Department of Transportation (DOT), through PHMSA, issues special permits under the Hazardous Materials Program Procedures (49 CFR part 107, subpart B). By issuing a special permit, PHMSA is in effect waiving requirements of the HMR and often imposing alternative requirements, *i.e.,* a special permit may allow a person to perform a function not otherwise permitted under the HMR.[1] PHMSA's Approvals and Permits Branch issues the special permits on behalf of the Associate Administrator.

The HMR requires that special permits must achieve a level of safety that is at least equal to that required by the regulation from which the special permit is sought; or, if a required safety level does not exist, is consistent with the public interest.[2]

Various stakeholders have inquired about the criteria for evaluating special permits consistent with the public interest, as well as how these special permits are evaluated. PHMSA is publishing this guidance to inform stakeholders and interested parties seeking a special permit in the public interest of the types of information PHMSA requires when it reviews a special permit application, and to provide examples of previous approved

[1] *https://www.govinfo.gov/content/pkg/USCODE-2011-title49/html/USCODE-2011-title49-subtitleIII-chap51.htm.*

[2] 49 CFR 107.105(d).

applications for a special permit in the public interest.

PHMSA guidance—such as this notice—is not substantive rules themselves and does not create legally enforceable rights, assign duties, or impose new obligations not otherwise contained in the existing regulations and standards. Instead, PHMSA guidance is intended as an aid to demonstrate compliance with the relevant regulations. An individual who can demonstrate compliance with PHMSA guidance is likely to demonstrate compliance with the relevant regulations. If a different course of action is taken by an individual, the individual must be able to demonstrate that its conduct is in accordance with the regulations.

II. Examples of Special Permits Consistent With the Public Interest

In the past, PHMSA has considered a special permit consistent with the public interest if the special permit provides a positive net benefit to the welfare or well-being of the public; *i.e.,* the benefit to society from the waiver authorized in the special permit will outweigh potential harms. For example, while the transport of an unapproved explosive substance is forbidden under the HMR, it would be in the public interest to allow for a one-time transport of the substance to remove it from a location that creates higher risk for the public—such as removal of a seized explosive from a port—provided the risk to the public can be minimized through operational controls.[3] Similarly, while movement of a certain hazardous material by passenger aircraft might be forbidden under the HMR, the movement might be justified if it is the only mode of transport available to a remote location and sufficient operational controls are in place to minimize risk to the public to the extent possible (*e.g.,* limiting only to a specific carrier with defined route).[4] Other examples of public interest special permits have supported responses to public health crises. For example, in response to the Ebola outbreak, PHMSA allowed specialized packaging to transport waste for disposal, subject to operational controls.[5] Prior to issuance of the special permit, there were no packagings authorized under the HMR that could have handled the large quantities of waste, so it was in the public interest to authorize an alternative means to transport the waste for incineration and disposal.

III. Justification for Special Permit Applications

Section 107.105(d)[6] outlines the information the applicant must provide when requesting a special permit application. An applicant seeking a special permit, whether on the basis of an equal level of safety required by the HMR or as consistent with the public interest, must provide:

- Information describing all relevant shipping and incident experience of which the applicant is aware that relates to the application.
- A statement identifying any increased risk to safety or property that may result if the special permit is granted, and a description of the measures to be taken to address that risk.
- Either one of the following:
  - Substantiation, with applicable analyses, data, or test results, (*e.g.,* failure mode and effect analysis), that the proposed alternative will achieve a level of safety that is at least equal to that required by the regulation from which the special permit is sought; or
  - If the regulations do not establish a level of safety, an analysis that identifies each hazard, potential failure mode, and the probability of its occurrence, and how the risks associated with each hazard and failure mode are controlled by the provisions of the prospective permit.

Without the applicant providing information outlined in § 107.105(d), PHMSA may not be able to complete its evaluation of the application as required by § 107.113(f). Further, in providing the above information and analysis, the applicant should demonstrate that the proposed alternative will achieve a level of safety that is consistent with the public interest and will adequately protect against the risks to life and property inherent in the transportation of hazardous materials in commerce.

IV. Adequate Protection Against the Risks to Life and Property

As discussed above, an applicant seeking a special permit consistent with public interest must demonstrate that their proposed alternative to the HMR will achieve a level of safety that adequately protects against risks to life and property.[7] This is often achieved by proposing various operational controls for a special permit in the application. A determination by PHMSA that an application and the proposed operational controls provide ''adequate protection'' against risks to life and property does not indicate such operational controls provide a lower level of safety than a special permit that was determined to have at least an ''equivalent level of safety'' to the HMR. Rather it is a safety determination in the absence of a standard to compare against the proposed approach in the special permit application.

A special permit application seeking to show it is consistent with the public interest must include information on how the applicant will minimize any safety risk to the maximum extent practicable. Applicants should include explanations of: (1) the hazardous material and how it is contained; (2) known risks of the hazardous material; (3) mitigation of the risks posed by the hazardous material via packaging, hazard communication, and/or operational controls; and (4) any other relevant factors to support mitigation of any safety risks.

Operational controls to help minimize transportation risks are also important features of permits issued in the public interest. Operational controls are requirements designed to enhance safety and oversight when transporting hazardous materials under special permits. Though special permits may waive some regulatory requirements due to unusual circumstances, operational controls allow permit holders to improve safety through policies, procedures, and communication. Operational controls in special permits have included selecting and training specific personnel; implementing additional equipment inspections and maintenance; limiting transport to certain times, routes, or conditions; using tracking and communication systems; documenting the permitted shipment; and other measures tailored to the situation. Operational controls may also limit the movement of the hazardous material to specific modes of transportation.

V. Supporting Documentation and Duration for Public Interest Special Permits

Providing detailed supporting documentation is key to supporting PHMSA's decision-making process. PHMSA evaluates all information and data outlined in this notice in reviewing and issuing a special permit application

[3] *See* DOT–SP 21357, Special Permit for Gateway Pyrotechnic Productions, LLC. PHMSA's Office of Hazardous Materials Safety maintains a searchable database of issued special permits on its website at *https://www.phmsa.dot.gov/approvals-and-permits/hazmat/special-permits-search.*

[4] See DOT–SP 16392, Special Permit for Gem Air, LLC; DOT–SP 12674, Special Permit for G & S Aviation, LLC; DOT–SP 15243, Special Permit for Katmailand, Inc.

[5] See DOT–SP 16279; DOT–SP 16278 & DOT–SP 16266, Special Permits for Stericycle, Inc.

[6] 49 CFR 107.105(d).

[7] 49 CFR 107.113(f)(2).

in the public interest. If the information outlined in the HMR and described in this notice is not provided in a special permit request, it is unlikely that a special permit would be issued in the public interest as the application would not be sufficient.

Finally, PHMSA will consider the length of time that the special permit issued in the public interest should remain in effect. New special permits are limited to a maximum of two years in duration by 49 U.S.C. 5117(a)(2). Emergencies—*e.g.,* natural disasters, failure of containment of a hazardous material in transport, etc.—require quick decision-making by PHMSA to mitigate the potential hazards to the public and the environment. Special permits issued in the public interest, such as in the case of emergencies, typically are only issued for an amount of time expected to be sufficient to address the emergency.

VI. Future Actions

This notice serves as guidance for interested parties looking to obtain special permits in the public interest. PHMSA encourages applicants seeking a special permit in the public interest to ensure applications include all necessary information to address the requirements of the HMR as outlined in this notice.

Issued in Washington, DC, on March 7, 2024.

William S. Schoonover,

Associate Administrator of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2024–05250 Filed 3–12–24; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request Relating to Carryover of Passive Activity Losses and Credits and At-Risk Losses to Bankruptcy Estates of Individuals

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning carryover of passive activity losses and credits and at-risk losses to bankruptcy estates of individuals.

DATES: Written comments should be received on or before May 13, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please include OMB Number 1545–1375 or TD 8537 in the Subject Line of the message. Requests for additional information or copies of this regulation should be directed to Sara Covington, at (202) 317–5744 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Carryover of Passive Activity Losses and Credits and At-Risk losses to Bankruptcy Estates for Individuals.

OMB Number: 1545–1375.

Regulation Project Number: T.D. 8537.

Abstract: These regulations relate to the application of carryover of passive activity losses and credits and at risk losses to the bankruptcy estates of individuals. The final regulations affect individual taxpayers who file bankruptcy petitions under chapter 7 or chapter 11 of title 11 of the United States Code and have passive activity losses and credits under section 469 or losses under section 465.

Current Actions: There are no changes being made to this existing regulation or to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 12 Minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 6, 2024.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2024–05257 Filed 3–12–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8582

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning, Passive Activity Los Limitations.

DATES: Written comments should be received on or before May 13, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–1008—Passive Activity Loss Limitations'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202)

317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Passive Activity Loss Limitations.

OMB Number: 1545–1008.

Form Number: 8582.

Abstract: Internal Revenue Code section 469 limits the passive activity losses that a taxpayer may deduct. The passive activity losses from passive activities, to the extent that they exceed income from passive activities, cannot be deducted against nonpassive income. Form 8582 is used to figure the passive activity loss allowed and the actual loss to be reported on the tax returns.

Current Actions: There is no change to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, estates, and trusts.

Estimated Number of Respondents: 250,000.

Estimated Time per Respondent: 3 hours, 30 minutes.

Estimated Total Annual Burden Hours: 875,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 5, 2024.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2024–05334 Filed 3–12–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning, Acquisition or Abandonment of Secured Property.

DATES: Written comments should be received on or before May 13, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–0877—Acquisition or Abandonment of Secured Property'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Acquisition or Abandonment of Secured Property.

OMB Number: 1545–0877.

Form Number: 1099–A.

Abstract: This form is used by persons who lend money in connection with a trade or business, and who acquire an interest in the property that is security for the loan or who have reason to know that the property has been abandoned, to report the acquisition or abandonment.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 466,000.

Estimated Time per Response: 9 minutes.

Estimated Total Annual Burden Hours: 74,560.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 5, 2024.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2024–05333 Filed 3–12–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8924

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this

opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning, Excise Tax on Certain Transfers of Qualifying Geothermal or Mineral Interests.

DATES: Written comments should be received on or before May 13, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–2099—Excise Tax on Certain Transfers of Qualifying Geothermal or Mineral Interests'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Excise Tax on Certain Transfers of Qualifying Geothermal or Mineral Interests.

OMB Number: 1545–2099.

Form Number: 8924.

Abstract: This form is required by Section 403 of the Tax Relief and Health Care Act of 2006 which imposes an excise tax on certain transfers of qualifying mineral or geothermal interests.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time per Respondent: 5 hours, 33 minutes.

Estimated Total Annual Burden Hours: 111.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 5, 2024.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2024–05335 Filed 3–12–24; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Federal Communications Commission

47 CFR Part 9
Location-Based Routing for Wireless 911 Calls; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 9

[PS Docket No. 18–64; FCC 24–4; FR ID 202993]

Location-Based Routing for Wireless 911 Calls

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission (the FCC or Commission) adopted a Report and Order in PS Docket No. 18–64, FCC 24–4, on January 25, 2024, and released on January 26, 2024. This document is a summary of the Commission's Report and Order. The Report and Order adopted rules to more precisely route wireless 911 calls and Real-Time Texts (RTT) to Public Safety Answering Points (PSAPs), which can result in faster response times during emergencies. Wireless 911 calls have historically been routed to PSAPs based on the location of the cell tower that handles the call. Sometimes, however, the 911 call is routed to the wrong PSAP because the cell tower is not in the same jurisdiction as the 911 caller. This can happen, for instance, when an emergency call is placed near a county border. These misrouted 911 calls must be transferred from one PSAP to another, which consumes time and resources and can cause confusion and delay in emergency response. The Report and Order requires wireless providers to deploy technology that supports location-based routing, a method that relies on precise information about the location of the wireless caller's device, on their internet Protocol (IP)-based networks and to use location-based routing to route 911 voice calls and RTT communications to 911 originating on those networks when caller location is accurate and timely. The Report and Order provides six months for nationwide wireless providers to implement location-based routing for wireless 911 voice calls and provides 24 months for non-nationwide wireless providers to implement location-based routing of wireless 911 voice calls. The Report and Order provides 24 months for all wireless providers to implement location-based routing for RTT communications to 911.

DATES:

Effective date: May 13, 2024.

Compliance date: Compliance will not be required for § 9.10(s)(4) and (5) until a document is published in the **Federal Register** announcing a compliance date and revising or removing § 9.10(s)(6).

FOR FURTHER INFORMATION CONTACT: Rachel Wehr, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–1138, *Rachel.Wehr@fcc.gov,* or Brenda Boykin, Deputy Division Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–2062, *Brenda.Boykin@fcc.gov*.

SUPPLEMENTARY INFORMATION: This document is a summary of the Commission's Report and Order. The full text of the Report and Order is available for public inspection at *https://docs.fcc.gov/public/attachments/FCC-24-4A1.pdf*. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), or to request reasonable accommodations (*e.g.,* accessible format documents, sign language interpreters, CART, etc.), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice).

Congressional Review Act

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

Synopsis

I. Background

1. This document is a summary of the Commission's Report and Order. In this document, we require Commercial Mobile Radio Service (CMRS) providers [1] to implement location-based routing for wireless 911 voice calls and real-time text (RTT) communications [2] to 911 nationwide. With location-based routing (LBR) as implemented under these rules, CMRS providers will use precise location information to route wireless 911 voice calls and RTT communications to 911 to the appropriate public safety answering point (PSAP). For the millions of individuals seeking emergency assistance each year by wireless 911 voice call or RTT communication to 911, improving routing for these services will reduce emergency response times and save lives.

2. In December 2022, the Commission adopted a notice of proposed rulemaking proposing to require CMRS providers and covered text providers to implement location-based routing for wireless 911 voice calls and texts nationwide.[3] Public safety commenters overwhelmingly supported the Commission's proposals. Legacy tower-based routing results in millions of 911 voice calls nationwide arriving at the incorrect PSAP for the caller's location, which can result in a delay of a minute or more in dispatch and response.[4] The record confirms that implementing location-based routing is technologically feasible and will significantly reduce wireless 911 voice call transfers, saving valuable time for both PSAPs and callers. As a result of the location-based routing rules we adopt, millions more wireless 911 calls will reach the appropriate PSAP without the need for transfer or delay.

3. To facilitate the implementation of location-based routing for wireless 911 voice calls and RTT communications to 911, we take the following actions:

- We require CMRS providers to deploy location-based routing technology for wireless 911 voice calls and RTT communications to 911 on their internet Protocol (IP)-based

[1] In this document and the Report and Order, we use the term Commercial Mobile Radio Service (CMRS) provider to refer to providers of CMRS, as defined in 47 CFR 9.3 (''Commercial mobile radio service (CMRS)''). When addressing the record in this proceeding, we assume that commenters using terms such as ''wireless carriers'' or ''wireless providers'' refer to CMRS providers subject to part 9 of the Commission's rules.

[2] The Commission defines real-time text as ''[t]ext communications that are transmitted over internet Protocol (IP) networks immediately as they are created, *e.g.,* on a character-by-character basis.'' 47 CFR 9.3; *accord id.* 67(g). In this document and the Report and Order, we use the term ''RTT communications'' to refer to instances in which an RTT user initiates contact with 911, for consistency with our part 9 and part 67 rules. *See* 47 CFR 9.10(c), 67.1(g), 67.2(c)(2). When addressing the record in this proceeding, we assume that commenters using the terms ''RTT call'' or ''RTT message'' refer to the same RTT communications described in the Commission's part 9 and part 67 rules.

[3] *Location-Based Routing for Wireless 911 Calls,* PS Docket No. 18–64, Notice of Proposed Rulemaking, 37 FCC Rcd 15183, 15184, para. 1 (2022), 88 FR 2565 (January 17, 2023) (notice of proposed rulemaking or NPRM).

[4] The Commission has previously found that a one minute increase in response times increases mortality, and that a one minute decrease in response times decreases mortality. *See, e.g., Wireless E911 Location Accuracy Requirements,* Third Further Notice of Proposed Rulemaking, 29 FCC Rcd 2374, 2388–89, para. 33 & n.70 (2014), 79 FR 17820 (March 28, 2014). As stated in the notice of proposed rulemaking and affirmed in the Report and Order, the Commission estimates that the implementation of wireless location-based routing under the rules we adopt in this document will save 13,837 lives annually, assuming a one-minute decrease in response time. *See* Notice of Proposed Rulemaking, 37 FCC Rcd at 15206–07, para. 61 & n.161.

networks (*i.e.,* 4G LTE, 5G, and subsequent generations of IP-based networks). We also require CMRS providers to use location-based routing to route wireless 911 voice calls and RTT communications to 911 originating on their IP-based networks when location information meets certain thresholds for accuracy and timeliness.

- We require CMRS providers to use location-based routing for wireless 911 voice calls and RTT communications to 911 when caller location information available to the CMRS provider's network at time of routing is ascertainable within a radius of 165 meters at a confidence level of at least 90%. In the absence of these conditions, CMRS providers must use alternative routing methods based on ''best available'' location information, which may include but is not limited to device-based or tower-based location information.
- We adopt the proposed six-month timeline for nationwide CMRS providers to implement location-based routing for wireless 911 voice calls and provide twenty-four months for non-nationwide CMRS providers to implement location-based routing of wireless 911 voice calls.[5] In addition, we provide 24 months for all CMRS providers to implement location-based routing for RTT communications to 911.
- We require CMRS providers within 60 days of the applicable compliance deadlines to certify and submit evidence of compliance with location-based routing requirements. At that time, CMRS providers also must submit one-time live call data reporting on the routing methodologies for calls in live call areas, and they must certify the privacy of location information used for location-based routing.
- We defer consideration of proposals in the notice of proposed rulemaking to require CMRS providers and covered text providers [6] to implement location-based routing for Short Message Service (SMS) texts to 911.
- We defer consideration of proposals and issues raised in the notice of proposed rulemaking concerning IP-formatted delivery of wireless 911 voice calls, texts, and associated routing information for consideration in the Commission's pending Next Generation 911 (NG911) Transition docket (PS Docket No. 21–479—Facilitating Implementation of Next Generation 911 Services).[7]

4. Legacy Enhanced 911 Routing. When the first 911 call was placed in 1968, 911 service was provided to the public over wireline telephone networks, and wireline providers used the fixed location of the calling telephone to route 911 calls to the nearest PSAP.[8] With the deployment of the first generation of cellular service, wireless 911 voice calls could originate from any location served by the wireless network, and the caller could move locations during the call. To enable timely routing of wireless 911 voice calls, CMRS providers typically programmed their networks to use the location of the first cell tower receiving the call to determine the nearest PSAP and route the call accordingly. This became the basis for routing of wireless Enhanced 911 (E911) calls (legacy E911 routing).

5. Wireless 911 Voice Call Misroutes. Technical limitations of legacy E911 routing can result in a CMRS provider routing a wireless 911 voice call to a PSAP other than the one designated by the relevant state or local 911 authority to receive 911 calls from the caller's actual location.[9] The Commission considers wireless 911 voice calls routed to a PSAP other than the one designated for the caller's location to be ''misrouted,'' although such misroutes generally result from tower-based call routing mechanisms working as designed, not from technical failure of those mechanisms. The Alliance for Telecommunications Industry Solutions (ATIS) estimates that on average 12% of wireless legacy E911 voice calls nationwide are misrouted.[10] Other commenters indicate that the percentage of misrouted wireless 911 voice calls is higher in some jurisdictions.[11] These estimates support the conclusion that tower-based routing causes millions of wireless 911 voice calls to be misrouted annually.[12]

6. When a wireless 911 voice call is misrouted, the answering telecommunicator must transfer the call to the PSAP that has jurisdiction to dispatch aid to the 911 caller's location. This process consumes time and resources for both the transferring PSAP and the receiving PSAP and delays the dispatch of first responders to render aid. Commenters submit anecdotal evidence that a typical misroute introduces a delay of about a minute.[13] NENA estimates that call transfers consume over 200,000 hours per year of excess 911 professional labor. Misrouted wireless 911 voice calls can also contribute to confusion and delay in

[5] The Commission defines a ''[n]on-nationwide CMRS provider'' for purposes of its part 9 rules as ''[a]ny CMRS provider other than a nationwide CMRS provider.'' 47 CFR 9.10(i)(1)(v). A ''[n]ationwide CMRS provider'' for purposes of the Commission's part 9 rules is ''[a] CMRS provider whose service extends to a majority of the population and land area of the United States.'' 47 CFR 9.10(i)(1)(iv).

[6] The Commission defines ''covered text provider'' as including ''all CMRS providers as well as all providers of interconnected text messaging services that enable consumers to send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones.'' 47 CFR 9.10(q)(1).

[7] *See Facilitating Implementation of Next Generation 911 Services (NG911),* PS Docket No. 21–479, Notice of Proposed Rulemaking, FCC 23–47, 2023 WL 3946685 (June 9, 2023), 88 FR 43514 (July 10, 2023), *https://www.fcc.gov/document/fcc-proposes-action-expedite-transition-next-generation-911-0* (*NG911 Notice of Proposed Rulemaking*).

[8] *Location-Based Routing for Wireless 911 Calls,* PS Docket No. 18–64, Notice of Inquiry, 33 FCC Rcd 3238, 3240, para. 6 (2018) (*Notice of Inquiry*).

[9] Notice of Proposed Rulemaking, 37 FCC Rcd at 15185–86, para. 7. For example, a cell tower in Northern Virginia may pick up a wireless 911 voice call originating in Washington, DC, but route the call to a Virginia PSAP. *Id.*

[10] Alliance for Telecommunications Industry Solutions (ATIS), Analysis of Predetermined Cell Sector Routing Outcomes Compared to Caller's Device Location, *ATIS–0500039* at 4 (July 2, 2019), *https://access.atis.org/apps/group_public/document.php?document_id=48697* (*ATIS–0500039*). Intrado cites a 2018 study concluding that 12.96% out of a set of five million wireless 911 calls were misrouted. Intrado Life & Safety, Inc. (Intrado) Public Notice Comments at 3 & n.8, 4 (rec. July 11, 2022) (Intrado PN Comments).

[11] For example, the Fayetteville (Arkansas) Police Department reports that ''roughly 30% or more'' of the 911 calls its jurisdiction receives are misrouted from neighboring jurisdictions. Natisha Claypool, Assistant Dispatch Manager, Fayetteville Police Department Public Notice Comments (rec. July 11, 2022). Intrado estimates, based on data collected in AT&T's pilot implementation of location-based routing in February/March 2022, that Palm Beach County, Florida, was experiencing misrouted calls with tower-based routing at a rate of at least 11%, and as high as 20–50% along PSAP boundaries. Intrado PN Comments at 4–5.

[12] In the Commission's 2023 annual 911 fee report, respondents reported receiving a combined total of approximately 158 million wireless 911 voice calls in calendar year 2022. FCC, Fifteenth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges at 16, Table 3 (2023), *https://www.fcc.gov/general/911-fee-reports* (Fifteenth Annual 911 Fee Report). Assuming 12% of these calls were misrouted, misroutes would total nearly 19 million calls. NENA: The 9–1–1 Association (NENA) estimates that 23 million wireless 911 voice calls are misrouted annually. NENA Notice of Proposed Rulemaking Comments at 2 (rec. Feb. 15, 2023) (NENA NPRM Comments).

[13] *See, e.g.,* Association of Public-Safety Communications Officials International, Inc. (APCO) Public Notice Comments at 2 (rec. July 11, 2022) (APCO PN Comments) (noting that ''it's possible that a misrouted call will introduce a delay of a minute or longer''); NENA Public Notice Comments at 4 (rec. July 11, 2022) (''[T]he general anecdotal consensus was that a call transfer typically takes 'about a minute.' ''); Peninsula Fiber Network Public Notice Comments at 1 (rec. July 8, 2022) (''Each transfer takes between 15 to 90 seconds to set up and complete.'').

emergency response.[14] This delay can have deadly consequences.[15]

7. Location-Based Routing Notice of Inquiry. In 2018, the Commission released a Notice of Inquiry seeking comment on issues related to misrouted wireless 911 calls, including the feasibility of location-based routing. Historically, generating precise caller location information typically required too much time to be used for 911 call routing. The Commission noted, however, that then-recent advances in location technology suggested it was feasible to pinpoint a wireless 911 voice caller's location quickly enough to support an initial routing determination. The Commission also found that many location-based routing methods were promising. The record received in response to the Notice of Inquiry confirmed the emergence of potential location-based routing solutions but also indicated uncertainty about the capabilities of such solutions at the time.[16]

8. Location-Based Routing Public Notice. In June 2022, the Commission released a Public Notice to refresh the record on location-based routing developments since the Notice of Inquiry.[17] Commenters confirmed that continued reliance on legacy E911 routing methodology results in a considerable number of wireless 911 voice call misroutes, which imposes significant burdens on public safety. Public safety commenters agreed that early location-based routing implementations by CMRS providers had shown that the technology was now technologically feasible. Several commenters noted that device-based hybrid (DBH) location technologies[18] were widely available on mobile devices and could be used for routing a high percentage of wireless 911 voice calls.

9. Location-Based Routing Notice of Proposed Rulemaking. On December 22, 2022, the Commission adopted the notice of proposed rulemaking in this proceeding, which proposed rules for CMRS and covered text providers to implement location-based routing for wireless 911 voice calls and 911 texts[19] nationwide, including wireless 911 voice calls and 911 text messages originating in legacy, transitional, and NG911-capable public safety jurisdictions.[20] The Commission proposed to establish requirements with respect to the accuracy and timeliness of location information CMRS and covered text providers would use to comply with location-based routing requirements. In particular, the Commission proposed to require CMRS providers and covered text providers to use location-based routing for 911 calls and texts when they have location information that meets the following specifications for timeliness and accuracy: (i) the information must be available to the provider network at the time the call or text is routed, and (ii) the information must identify the caller's horizontal location within a radius of 165 meters at a confidence level of at least 90%.

10. The Commission also proposed that when location information does not meet one or both of these requirements, CMRS providers and covered text providers would be required to route 911 calls and texts based on the best available location information, which could include cell tower coordinates. In addition, to help ensure that public safety jurisdictions transitioning to NG911 could realize the benefits of location-based routing in an efficient and cost-effective manner, the Commission proposed to require CMRS providers and covered text providers to deliver wireless 911 voice calls, texts,

[14] For example, on June 4, 2020, 16-year-old Fitz Thomas drowned at Confluence Park on the Potomac River, which separates Loudoun County, Virginia, and Montgomery County, Maryland. Press Release, Loudoun County Office of the County Administrator, Public Affairs and Communications, Loudoun County Releases Significant Incident Review of Goose Creek Drowning at 1 (Aug. 31, 2020), *https://www.loudoun.gov/ArchiveCenter/ViewFile/Item/10062.* Due to the incident's proximity to the jurisdictional border of the Potomac River and the use of legacy E911 routing, both counties received wireless 911 calls routed from the park located on the Virginia side of the river. *Id.* at 2. Efforts to determine Thomas's actual location contributed to a delay in dispatching first responders. *Id.* On July 15, 2022, Ma Kaing was shot and killed by a stray bullet outside her home in the East Colfax neighborhood of Denver. Jennifer Kovaleski, *Stuck on the line: Cellphone calls routed to the wrong 911 center are costing life-saving seconds,* Denver7 (Nov. 19, 2022), *https://www.denver7.com/news/investigations/stuck-on-the-line-cellphone-calls-routed-to-the-wrong-911-center-are-costing-life-saving-seconds.* The news media reported that four calls from her family and neighbors were misrouted to a neighboring PSAP and required transfer; three callers hung up after waiting minutes on hold. *Id.*

[15] The news media have widely reported on such tragic occurrences. For example, in December 2015, dispatchers were unable to locate Shanell Anderson, who drowned after accidentally driving off the road and into a pond close to the line between Fulton and Cherokee Counties in Georgia. Brendan Keefe and Phillip Kish, *Lost on the Line: Why 911 is broken,* 11ALIVE (Aug. 12, 2019), *https://www.11alive.com/article/news/local/lost-on-the-line-why-911-is-broken/85-225104578.* According to the news media, Shanell Anderson was able to call 911, but the call was picked up by a cell tower in Fulton County and routed to that county's PSAP, where critical minutes were lost while dispatchers sought to determine the county in which she was located (Cherokee County). *Id.* In another incident in 2008, Olidia Kerr Day made a wireless 911 call before she was fatally shot in a murder-suicide in front of the Plantation, Florida, police department. Sofia Santana, *Cell Phone 911 Calls Are Often Routed to the Wrong Call Centers,* Sun Sentinel (June 21, 2008), *https://www.sun-sentinel.com/sfl-flbsafe911calls0621sbjun21-story.html.* According to the news media, although she placed the call in Plantation, the call was routed to the 911 center in Sunrise, Florida, and had to be transferred to Plantation. *Id.*

[16] Commenters to the *Notice of Inquiry* offered varying opinions about whether technologies were capable of location-based routing without delaying 911 calls. *See, e.g.,* AT&T Notice of Inquiry Reply at 11 (rec. June 28, 2018) (''Even the most promising of location-based technologies . . . have limits.''); Motorola Solutions, Inc. Notice of Inquiry Comments at 2 (rec. May 7, 2018) (asserting that testing has confirmed that location-based wireless routing is faster and more accurate than legacy wireless routing).

[17] *Federal Communications Commission Seeks to Refresh the Record on Location-Based Routing for Wireless 911 Calls,* PS Docket No. 18–64, Public Notice, 37 FCC Rcd 7196, 7196 (2022) (*Public Notice*).

[18] Device-based hybrid (DBH) location is an estimation method that typically utilizes either a selection or a combination of location methods available to the handset in a given environment, including crowd-sourced Wi-Fi, A–GNSS, and possibly other handset-based sensors. *Public Notice,* 37 FCC Rcd at 7197–98 n.8 (citing *CSRIC V LBR Report* at 16). It also includes an associated uncertainty estimate reflective of the quality of the returned location. *Id.*

[19] A ''911 text message'' is ''a message, consisting of text characters, sent to the short code '911' and intended to be delivered to a PSAP by a covered text provider, regardless of the text messaging platform used.'' 47 CFR 9.10(q)(9). The Commission's text-to-911 rules are technology neutral and apply to both Short Message Service (SMS) and real-time text (RTT). *Transition from TTY to Real-Time Text Technology; Petition for Rulemaking to Update the Commission's Rules for Access to Support the Transition from TTY to Real-Time Text Technology, and Petition for Waiver of Rules Requiring Support of TTY Technology,* CG Docket No. 16–145, GN Docket No. 15–178, Report and Order, 31 FCC Rcd 13568, 13593, para. 45 n.181 (2016), 82 FR 7699 (January 23, 2017) (*RTT Order*). RTT transition obligations only apply to a subset of covered text providers: ''those entities that are involved in the provision of IP-based wireless voice communication service, and only to the extent that their services are subject to existing TTY technology support requirements under Parts 6, 7, 14, 20, or 64 of the Commission's rules.'' *RTT Order,* 31 FCC Rcd at 13576–77, para. 12.

[20] Notice of Proposed Rulemaking, 37 FCC Rcd at 15184–85, para. 3. In the notice of proposed rulemaking, the Commission used the term ''NG911-capable'' to refer to PSAPs or jurisdictions that have implemented IP-based network and software components that are capable of supporting the provision of NG911, including but not limited to an Emergency Services internet Protocol Network (ESInet). *Id.* at 15184, para. 3 n.5. NG911 relies on IP-based architecture rather than the Public Switched Telephone Network (PSTN)-based architecture of legacy 911 to provide an expanded array of emergency communications services that encompasses both the core functionalities of legacy E911 and additional functionalities that take advantage of the enhanced capabilities of IP-based devices and networks. *Framework for Next Generation 911 Deployment,* PS Docket No. 10–255, Notice of Inquiry, 25 FCC Rcd 17869, 17877, para. 18 (2010), 76 FR 2297 (January 13, 2011). NG911 architecture also provides for transitional network components to enable delivery of legacy 911 calls to ESInets during the transition to full end-state NG911. *See id.* at 17878, para. 20 (explaining that emergency calls can be delivered to ESInets from legacy networks).

and location information for routing [21] in IP format upon request of 911 authorities [22] who have established the capability to accept NG911-compatible IP-based 911 communications. At the time of the notice of proposed rulemaking, AT&T, T-Mobile, and Verizon had stated publicly in the record or elsewhere that they had deployed or planned to deploy location-based routing to some extent on their networks for voice calls.[23] The Commission received twenty-six comments, fourteen replies, and several ex parte filings.

11. Virtually all public safety commenters and some additional commenters support Commission action to require CMRS providers to implement location-based routing for wireless 911 voice calls. Multiple public safety commenters and Intrado support the Commission's proposal that CMRS providers implement location-based routing nationwide. Commenters representing wireless interests urge the Commission to allow CMRS providers to implement location-based routing voluntarily or on a PSAP-by-PSAP basis, as opposed to a nationwide mandate. With respect to text-to-911, numerous commenters support requiring covered text providers to implement location-based routing, but some commenters contend that such a requirement would be premature. Citing a lack of technical standards for routing SMS texts to 911, NENA, ATIS, and Southern Linc oppose requiring covered text providers to implement location-based routing for SMS but suggest that the Commission should require location-based routing for IP-based text solutions such as RTT.

12. In response to the Commission's proposed timeliness and accuracy requirements for use of location-based routing, some commenters express support for the proposed requirements,[24] while others oppose the proposed accuracy threshold and request flexibility for providers to set their own thresholds. In response to the Commission's proposed requirement for CMRS and covered text providers to deliver 911 calls, texts, and associated routing information in IP format upon request of 911 authorities who have established the capability to accept such communications, multiple commenters ask the Commission to address such proposals together with corresponding proposed requirements for other types of originating service providers in a separate proceeding.[25]

13. NG911 Notice of Proposed Rulemaking. In June 2023, the Commission adopted a notice of proposed rulemaking in PS Docket No. 21–479 to advance the nationwide transition to Next Generation 911 (NG911 Notice of Proposed Rulemaking). In the NG911 Notice of Proposed Rulemaking, the Commission proposed to require wireline, interconnected Voice over internet Protocol (VoIP), and internet-based Telecommunications Relay Service (TRS) providers to complete all translation and routing to deliver 911 calls, including associated location information, in the requested IP-based format to an Emergency Services IP network (ESInet) or other designated point(s) that allow emergency calls to be answered, upon request of 911 authorities who have certified the capability to accept IP-based 911 communications. This proposal is similar to that proposed for CMRS and covered text providers in the notice of proposed rulemaking in this proceeding.

14. Ongoing Location-Based Routing Deployment. As the Commission noted in the notice of proposed rulemaking, several developments indicate that location-based routing has become a viable methodology for CMRS providers to route wireless 911 voice calls and texts. These developments include studies on misroutes and location-based routing technology and increased deployment of DBH location technologies on consumer handsets.[26] In 2019, ATIS published two studies on legacy E911 misroutes and the feasibility of location-based routing.[27] In those studies, ATIS concluded that ''location-based routing is technically feasible within the timing considerations recommended by [Communications Security, Reliability, and Interoperability Council (CSRIC)] V'' [28] and evaluated where ''sub-optimal routing'' occurred for a sample set of wireless emergency calls. ATIS has also issued two standards that support location-based routing: ATIS–0700042 (Enhancing Location-Based Routing of Emergency Calls) and ATIS–0700015 (ATIS Standard for Implementation of 3GPP Common IMS Emergency Procedures for IMS Origination and ESInet/Legacy Selective Router

[21] In NG911 architecture, device-based location information embedded in IP-formatted 911 calls is first used by the provider to route the call to an ESInet, and the ESInet operator then applies NG911 network routing policies to the embedded information to route the call to the appropriate PSAP. Notice of Proposed Rulemaking, 37 FCC Rcd at 15203, para. 53.

[22] While the Commission has not specifically defined the term ''911 authorities'' in this proceeding, we use this term in this document to generally mean ''[t]he state, territorial, regional, Tribal, or local agency or entity with the authority and responsibility under applicable law to designate the point(s) to receive emergency calls.'' *NG911 Notice of Proposed Rulemaking* at *21, para. 53 (proposing a definition of the term ''911 Authority'' that would define the term for purposes of Commission rules related to the NG911 transition).

[23] Press Release, T-Mobile USA, Inc. (T-Mobile), T-Mobile First to Roll Out Cutting-Edge 911 Capabilities (Dec. 17, 2020), *https://www.t-mobile.com/news/network/tmobile-next-generation-911-location-based-routing* (T-Mobile Dec. 17, 2020 Press Release); T-Mobile Public Notice Reply at 2 & n.6 (rec. July 25, 2022) (T-Mobile PN Reply); AT&T PN Comments at 4; CB Cotton, Verizon plans to update 911 routing technology after Denver's East *Colfax* neighborhood calls for change, Denver7 (Aug. 5, 2022), *https://www.denver7.com/news/local-news/verizon-plans-to-update-911-routing-technology-after-denvers-east-colfax-neighborhood-calls-for-change.*

[24] APCO NPRM Comments at 2; Adams County et al. NPRM Comments at 3; Boulder Regional Emergency Telephone Service Authority (BRETSA) Notice of Proposed Rulemaking Reply at 6 (rec. Mar. 20, 2023) (BRETSA NPRM Reply); Intrado NPRM Comments at 5; *see also* AT&T NPRM Comments at 4 (supporting a definition of ''device-based location information'' that is tied to timeliness and accuracy metrics ''that the Commission believes would represent a significant improvement over cell-based routing methodologies'').

[25] Letter from Christiaan Segura, Director, Regulatory Affairs, CTIA—The Wireless Association (CTIA), to Marlene H. Dortch, Secretary, FCC, PS Docket No. 18–64, at 2 (filed July 3, 2023) (CTIA July 3, 2023 Ex Parte); Intrado NPRM Comments at 2, 5–6; Texas 9–1–1 Entities NPRM Comments at 5–6 n.21; NENA NPRM Reply at 4–5; Verizon Notice of Proposed Rulemaking Reply at 4–5 (rec. Mar. 20, 2023) (Verizon NPRM Reply) (recommending the Commission ''coupl[e] LBR with a framework for i3-based NG911 implementation''); see also Letter from Joely Denkinger, Regulatory Counsel, Federal Affairs, GCI Communication Corp. (GCI), to Marlene H. Dortch, Secretary, FCC, PS Docket Nos. 18–64, 21–479, at 1 (filed July 17, 2023) (GCI July 17, 2023 Ex Parte).

[26] Press Release, CTIA, Wireless Industry Announces Development in Improving 9–1–1 Location Accuracy (Sept. 5, 2018), *https://www.ctia.org/news/wireless-industry-announces-development-in-improving-9-1-1-location-accuracy;* Letter from Paul Margie, Counsel, Apple Inc., to Marlene H. Dortch, Secretary, FCC, PS Docket No. 18–64 et al., at 2 (filed Sept. 24, 2019) (Apple Sept. 24, 2019 *Ex Parte*). Device-based hybrid (DBH) location is ''[a]n estimation method that typically utilizes either a selection or a combination of location methods available to the handset in a given environment—including crowd-sourced Wireless Fidelity (Wi-Fi), Assisted-Global Navigation Satellite System (A–GNSS), and possibly other handset-based sensors.'' *ATIS–0700042* at 2. ''It also includes an associated uncertainty estimate reflective of the quality of the returned location.'' *Id.*

[27] *ATIS–0700042; ATIS–0500039.* ATIS observed that calls that are ''sub-optimally routed'' tend to occur ''[a]long PSAP boundaries,'' ''[i]n areas having a dense concentration of PSAPs,'' ''[a]round major water features,'' and ''[a]long narrow strips of jurisdictional territory.'' *ATIS–0500039* at 12.

[28] *ATIS–0700042* at 22. CSRIC is a Federal advisory committee subject to the requirements of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and charged with providing recommendations to the Commission to ensure, among other things, the security and reliability of communications systems. FCC, *Communications Security, Reliability, and Interoperability Council, https://www.fcc.gov/about-fcc/advisory-committees/communications-security-reliability-and-interoperability-council-0* (last visited Jan. 17, 2023).

Termination). The Competitive Carriers Association (CCA) states that in these and other documents, ''ATIS has defined several architecture options that carriers can use to provide location-based routing as well as several call flow options from which carriers can choose to employ to conduct location-based routing.'' [29]

15. The three nationwide CMRS providers are continuing to deploy location-based routing for wireless 911 voice calls on their networks. AT&T completed the rollout of location-based routing on its network in June 2022 and uses location-based routing to deliver wireless 911 voice calls to nearly all PSAPs nationwide, regardless of whether such PSAPs support legacy E911 or are transitioning to NG911.[30] T-Mobile launched location-based routing on its network in the states of Texas and Washington in 2020 and as of December 2023 had deployed location-based routing for wireless 911 voice calls to 1,591 PSAPs with an additional 596 in progress.[31] In December 2023, Verizon reported that it had implemented location-based routing for wireless 911 voice calls to 414 PSAPs with an additional 277 PSAPs in progress.

16. For wireless 911 voice calls, AT&T, T-Mobile, and Verizon have, to date, implemented their own different thresholds to determine whether device location information arriving with the call is sufficiently precise for routing. According to Intrado, AT&T's location-based routing solution uses a threshold with a radius of 165 meters and 90% confidence, which has enabled AT&T to use location-based routing for over 80% of all wireless 911 voice calls on its network. T-Mobile reports that it has implemented ''a location estimate uncertainty threshold for LBR currently set to 300 meters with a confidence level of 90%,'' and reports that more than 95% of location estimates available at call routing fall within these metrics.[32] Verizon reports that it uses ''an accuracy threshold of 200 meters maximum horizontal uncertainty with confidence of 90 percent.'' AT&T, T-Mobile, and Verizon state that they default to legacy E911 routing when device location information arriving with the call exceeds the radius of the providers' respective thresholds.

17. Text Messaging Platforms. Since 2014, all CMRS providers and covered text providers have been required to support delivery of 911 texts to PSAPs that are capable of receiving them. While availability of text-to-911 has increased significantly as more PSAPs become text-capable, the number of 911 texts sent by the public is far smaller than the number of wireless 911 voice calls.[33] The Commission's text-to-911 rules are technology neutral and apply to both SMS and RTT.

18. SMS is the predominant mobile wireless messaging technology in use for 911 texts today. SMS is not an IP-native format, though IP-enabled networks can deliver SMS traffic. All three nationwide CMRS providers report that they are using location-based routing for at least some SMS texts to 911, but this implementation appears to be distinct from and less extensive than the implementation of location-based routing for 911 voice calls. According to Verizon, ''SMS still uses call path, routing and device processing methods that are distinct from VoLTE and RTT calls, with architecture configurations that still resembles second- and third-generation networks in some respects.'' AT&T reports that it provides device-based hybrid location for ''the majority of text messages'' but does not provide specifics.[34] T-Mobile reports that it is using location-based routing for at least some text-to-911 messages.[35] Verizon indicates that it ''has worked with its wireless 911 vendor Comtech to incorporate LBR in Comtech's centralized text control center (TCC) in a manner that supports LBR for 911 text messages nationwide.'' [36] Moreover, while the nationwide providers appear to be capable of using location-based routing for some SMS texts, NENA and other commenters indicate that standards have not been developed for location-based routing of SMS and that further work on standards is needed.

19. RTT, unlike SMS, is a native IP technology, in which each text character appears on the receiving device at roughly the same time it is typed on the sending device, allowing for a conversational flow of communication. RTT also allows text characters to be sent simultaneously with voice, which allows the PSAP to both see the typed message and hear background noises and potentially the voice of the caller. The Commission's rules require that CMRS providers choosing to implement RTT to and from any PSAP served by their network in lieu of text telephone (TTY) technology must do so in a manner that fully complies with all applicable 911 rules.[37] The Commission also requires CMRS providers who choose to support RTT to make RTT backward-compatible with TTY devices. This enables PSAPs without end-to-end RTT capability to use their existing TTY

[29] CCA NPRM Comments at 7. CCA also states that ''3GPP has also addressed how to implement location-based routing, and several 3GPP specifications relate to location services and emergency calling.'' CCA NPRM Comments at 9. In particular, CCA identifies TS 23.167, entitled ''Technical Specification Group Services and System Aspects; IP Multimedia Subsystem (IMS) emergency sessions,'' as identifying ''architectural principles, location information principles, a reference architecture, functional descriptions, procedures for establishing an IMS emergency session, call flows, and related information.'' *Id.* CCA also notes that other 3GPP specifications, including TS 36.305—''Stage 2 functional specification of User Equipment (UE) positioning in E–UTRAN'' and TS 38.305—''NG Radio Access Network (NG–RAN); Stage 2 functional specification of User Equipment (UE) positioning in NG–RAN,'' provide additional pertinent information regarding the implementation of location services data. *Id.* at 9–10.

[30] AT&T PN Comments at 4; AT&T NPRM Comments at 1. AT&T notes that a few PSAPs are using unique internal routing solutions and that the company is working to ensure that its implementation of location-based routing meets the needs of these PSAPs. AT&T PN Comments at 4 n.3.

[31] Letter from Eric Hagerson, Government Affairs Director, Public Safety and Security, T-Mobile, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 18–64 at 1 (filed Dec. 21, 2023) (T-Mobile Dec. 21, 2023 *Ex Parte*). T-Mobile reports that it only deploys location-based routing in response to a PSAP's request. *See, e.g.,* T-Mobile Public Notice Comments at 1, 4–7 (rec. July 11, 2022) (T-Mobile PN Comments); T-Mobile PN Reply at 2–4. For context, the latest NENA data indicate that 5,748 PSAPs operate in the United States. NENA, *9–1–1 Statistics, https://www.nena.org/page/911Statistics* (last visited Jan. 17, 2024).

[32] Letter from Kristine Laudadio Devine, Counsel to T-Mobile USA, Inc., HWG LLP, to Marlene H. Dortch, Secretary, FCC, P.S. Docket Nos. 18–64, 21–479, at 1 (filed July 26, 2023) (T-Mobile July 26, 2023 *Ex Parte*). For purposes of this document, we assume that when commenters specify an uncertainty measurement for an implementation of location-based routing, that they are referring to the radius in meters from the reported position at the same confidence level. This assumption is consistent with prior Commission discussion of confidence and uncertainty data in the *Wireless Location Accuracy* proceeding, *i.e.,* that the uncertainty statistical estimate is expressed as a radius in meters around the reported position, and the confidence level is expressed as a percentage, indicating the statistical probability that the caller is within the area defined by the uncertainty. *See, e.g., Wireless E911 Location Accuracy Requirements,* Fourth Report and Order, PS Docket No. 07–114, 30 FCC Rcd 1259, 1326–27, para. 182 n.458 (2015), 80 FR 11806 (March 4, 2015).

[33] In the Commission's 2023 annual 911 fee report, respondents reported receiving a combined total of 824,609 texts to 911 in comparison to 157,999,298 wireless 911 voice calls reported by respondents in calendar year 2022. Fifteenth Annual 911 Fee Report at 13–16, Table 3.

[34] AT&T PN Comments at 5. AT&T explains that ''[w]hen the SMS message arrives at the TCC, [the TCC] queries [AT&T's] wireless network for commercial location estimates to deliver the text message to the appropriate PSAP.'' *Id.*

[35] T-Mobile July 26, 2023 *Ex Parte* at 3. T-Mobile explains that texts to 911 are routed from T-Mobile's network to its TCC vendor and, ''whenever possible,'' T-Mobile includes device-based hybrid location information with those texts. *Id.*

[36] Verizon Dec. 7, 2023 *Ex Parte* at 1. Verizon states that its location-based routing implementation will support location-based routing for RTT. Verizon NPRM Comments at 5.

[37] *RTT Order,* 31 FCC Rcd at 13591–92, para. 43. This includes the requirement to deliver RTT communications within six months to PSAPs that submit a valid request. *Id.* at 13592–93, para. 45 & n.181.

terminals to handle RTT 911 communications.[38]

20. While SMS is used more frequently than RTT for messaging to 911, CMRS providers are beginning to partner with some PSAPs to implement end-to-end RTT capabilities. T-Mobile reports that it is currently operating NG911 RTT technology at a PSAP in Hood County, Texas. Verizon indicates that it now supports RTT for 911 in Livingston Parish, Louisiana, and Logan County, West Virginia. The record does not indicate the degree to which CMRS providers have implemented location-based routing for RTT communications to 911, but the providers and other industry commenters state that location-based routing for RTT communications to 911 is feasible.[39]

A. Location-Based Routing

1. Wireless 911 Voice Calls

21. We adopt requirements for nationwide and non-nationwide CMRS providers to implement location-based routing as proposed in the notice of proposed rulemaking for voice calls, with certain modifications. Specifically, we require all CMRS providers to (1) deploy technology that supports location-based routing on their IP-based networks (*i.e.,* 4G LTE, 5G, and subsequent generations of IP-based networks), and (2) use location-based routing to route all wireless 911 voice calls originating on their IP-based networks when location information meets certain requirements for accuracy and timeliness. We note that nothing in this decision, including the definition of ''location-based routing'' and other rules we adopt, authorizes the use of any non-U.S. satellite system in conjunction with the 911 system. CMRS providers seeking to employ foreign satellite navigation systems for 911 should follow the existing approval process.

22. We require nationwide CMRS providers to comply with these location-based routing requirements for voice calls within six months after the effective date of the final rules. We require non-nationwide CMRS providers to comply with these location-based routing requirements for voice calls within 24 months after the effective date of the final rules in recognition of resource constraints faced by these providers. As discussed below, we adopt these requirements in light of record support that location-based routing for wireless 911 voice calls promotes public safety, is technologically feasible at reasonable cost for both nationwide and non-nationwide CMRS providers, and has been deployed by the three nationwide CMRS providers. We find that these requirements are necessary to extend the demonstrated, life-saving benefits of location-based routing to all wireless 911 callers nationwide.

a. Nationwide and Network-Wide Implementation

23. We require all CMRS providers to deploy location-based routing technologies for voice calls across their IP-based networks. In the notice of proposed rulemaking, the Commission sought comment on whether CMRS providers should be required to use location-based routing to deliver 911 calls to all PSAPs served by their networks, or whether the requirement should be triggered by PSAP request or limited to certain categories of PSAPs. We find that requiring CMRS providers to implement this technology across their IP network areas is necessary to ensure that wireless 911 callers receive the demonstrated benefits of improved routing, regardless of the caller's geographic location or CMRS provider.

24. We find that nationwide implementation of location-based routing will reduce 911 call transfers and improve wireless 911 service. As wireless 911 voice calls account for the vast majority of communications to 911, we consider it to be particularly important that these calls are routed to the appropriate PSAP.[40] CMRS providers' voluntary deployments of location-based routing have resulted in important and evident improvements to 911 wireless voice call routing. The record indicates that ongoing deployments of location-based routing have significantly reduced the occurrence of transferred wireless 911 voice calls.[41] AT&T estimates that, as a result of its nationwide implementation, 10% of all wireless 911 voice calls on its network received a more optimal route and therefore did not need to be transferred. The National Association of State 911 Administrators (NASNA) states that uniform implementation of location-based routing has the potential to route 911 calls to the right PSAP faster than traditional cell sector-based routing in many cases and, in an emergency, ''seconds can mean the difference between life and death.'' Public safety commenters emphasize, and we agree, that increasing the implementation of location-based routing will reduce delays and save lives.[42] We find that it is in the public interest that the benefits of location-based routing should extend to all wireless 911 callers, regardless of the CMRS provider or jurisdiction from which the call is made.

25. Further, the public safety community strongly supports requiring CMRS providers to deploy location-based routing on a nationwide basis. Several public safety organizations urge the Commission to require CMRS providers to implement location-based

[38] *RTT Order,* 31 FCC Rcd at 13590, para. 39. Currently, RTT communications to 911 that are received at many PSAPs are converted to TTY. Letter from AnnMarie Killian, Chief Executive Officer, TDIforAccess, Inc., and Mark Seeger, Policy Coordinator, TDIforAccess, Inc., to Marlene H. Dortch, Secretary, FCC, PS Docket No. 18–64, at 2 (filed Aug. 31, 2023).

[39] Verizon NPRM Comments at 5 (''Verizon's planned LBR implementation for VoLTE will support real-time-text (RTT) 911 calls.''); *see also* ATIS NPRM Comments at 3 (urging the Commission ''to clarify that only providers of such next generation text solutions [as defined in ATIS and NENA standards] are required to use LBR'').

[40] In the Commission's 2023 annual 911 fee report, respondents reported receiving a combined total of 157,999,298 wireless 911 voice calls in calendar year 2022 out of a total call volume of 217,654,456 from wireless wireline, VoIP, and other providers. Fifteenth Annual 911 Fee Report at 13–16, Table 3.

[41] AT&T NPRM Comments at 2; Texas 9–1–1 Entities Public Notice Comments at 2–4 (rec. July 11, 2022) (Texas 9–1–1 Entities PN Comments) (showing that average percentage of 911 call transfers for two out of three PSAPs in initial beta sites decreased by roughly 4–5% after T-Mobile implemented location-based routing; the remaining PSAP showed a slight increase in transfers of less than 1%); T-Mobile, *T-Mobile First to Roll Out Cutting-Edge 911 Capabilities* (Dec. 17, 2020), *https://www.tmobile.com/news/network/tmobile-next-generation-911-location-based-routing* (announcing that some areas where T-Mobile implemented location-based routing have experienced up to 40% fewer call transfers).

[42] BRETSA NPRM Comments at 9 (''By eliminating delay in delivery of a 9–1–1 call to the correct PSAP, LBR can improve outcomes.''); BRETSA NPRM Reply at 4 (''LBR reduces delay in processing and dispatching 9–1–1 calls even where 9–1–1 [m]isroutes do not occur.''); Industry Council for Emergency Response Technologies, Inc. (iCERT) NPRM Comments at 2 (''The improved location and routing methodology made available with LBR will reduce the potential for 911 voice calls and texts to be directed to Public Safety Answering Points (PSAPs) that are not the ones best able to provide timely and effective response. As a result, the use of LBR technologies should eliminate the delays associated with 911 call transfers, improve emergency response times, and save lives.''); Intrado NPRM Comments at 2 (''Requiring LBR for all CMRS and text providers will ensure the availability of this life saving location technology for all 911 callers while increasing the efficiency of Public Safety Answering Points (PSAPs) by eliminating the time and effort to execute call transfers.''); Defense Information Systems Agency (DISA) NPRM Comments at 2 (''The vast majority of 911 calls from wireless devices destined for DoD PSAPs are currently being misrouted. DoD bases would immediately benefit from the reduction in call delivery time has a direct and immediate impact on emergency incident response.''); APCO NPRM Comments at 1 (noting that location-based routing has saved valuable time for PSAPs and callers). In addition, AT&T notes that Kurt Mills, the Executive Director of Snohomish County (Washington) 911, has described location-based routing as a ''game changer'' that caused the County to experience a ''significant decrease in 9–1–1 transfers.'' AT&T NPRM Comments at 1–2.

routing. Other public safety commenters and Intrado also support a nationwide location-based routing requirement.[43] The record indicates that the nationwide CMRS providers have implemented location-based routing without increased costs or problems for public safety.[44] In particular, no commenter indicates that AT&T's nationwide implementation of location-based routing, completed to ''virtually all'' PSAPs in June 2022, has caused additional cost or other problems for public safety.[45] Given the success of nationwide CMRS providers in voluntarily implementing location-based routing on their IP-based networks, and in particular the success of AT&T's nationwide implementation, we agree with Boulder Regional Emergency Telephone Service Authority (BRETSA), which states that requiring wireless service providers to implement location-based routing at the earliest possible moment is ''a no-brainer.'' [46]

26. We also find that requiring location-based routing to all PSAPs nationwide supports the Commission's goal to promote parity of wireless 911 service across jurisdictions. NASNA states, and we agree, that ''[a]ttempting to create areas of exclusive enhanced location accuracy fosters deployment of disparate levels of service; all those who call or text 911 should benefit from LBR.'' NENA points out, and we agree, that ''[i]t would be inequitable to restrict the life-saving benefits of location-based routing only to residents of and visitors to the United States with the good fortune of having an emergency in a convenient location.'' Commenters also urge the Commission not to limit deployment of this technology to jurisdictions subject to frequent misroutes or to jurisdictions that have deployed NG911 capabilities. Intrado comments that even in low misroute areas, the implementation of location-based routing will result in a significant reduction in misroutes compared to relying exclusively on tower-based routing.[47] Public safety commenters also note that implementation of location-based routing on a nationwide basis will provide technological consistency for PSAPs, which will help them provide better service, and that technological consistency between CMRS providers is important for managing the expectations of 911 callers.[48]

27. Wireless industry commenters oppose a mandatory nationwide approach,[49] arguing instead that CMRS providers should implement location-based routing voluntarily or only in response to individual PSAP requests.[50] These commenters argue that CMRS providers should only be required to use location-based routing for 911 calls to a particular PSAP after receiving a valid request from that PSAP. In addition, they argue that for a PSAP request to be deemed valid, the PSAP should be required to demonstrate that it is ''technically ready'' [51] to receive calls routed using location-based routing and to provide shapefiles of PSAP boundaries to CMRS providers.[52] As explained below, we find that the concerns of industry commenters are unsupported in the record, contradict the stated preferences of public safety for a nationwide approach to deployment, and would unnecessarily delay the benefits of location-based routing to the public.

28. Per-PSAP Implementation. We decline to adopt a per-PSAP deployment approach. Contrary to the assertion of industry commenters, the record does not demonstrate that individual PSAPs must take specific technical steps in order to be ready to receive wireless 911 calls routed using location-based routing. The generation of location-based routing information as contemplated in this proceeding occurs entirely within CMRS provider networks prior to call delivery to the PSAP,[53] and therefore there are no specific actions that PSAPs need to take to be technically ready to receive wireless 911 calls routed by device-based rather than tower-based location. As the Colorado Public Utilities Commission (COPUC) states, ''Because LBR is performed before the call is even delivered to the 9–1–1 system service provider for delivery to the PSAP, there

[43] *See, e.g.,* APCO NPRM Comments at 2 (stating that ''location-based routing should be required of wireless carriers nationwide''); DISA NPRM Comments at 2 (''CMRS providers should use LBR to deliver 911 calls to *all* PSAPs served by their networks.'' (emphasis in original)); Adams County et al. NPRM Comments at 2 (''The Commission should require location-based routing on a nationwide basis.''); Loudoun County NPRM Comments at 3 (''Loudoun strongly supports the proposed rules requiring wireless carriers and covered text providers to implement all available technology options for location-based routing of 911 calls and texts nationwide using the device-based location.''); BRETSA NPRM Comments at 10 (''There is no question but that the Commission should require all CMRS providers to implement LBR for wireless voice calls and text messages as soon as possible.''); Intrado NPRM Comments at 1 (''Intrado strongly supports the Commission's proposed requirement for nationwide implementation of location-based routing (LBR) of wireless 911 calls and texts.'').

[44] Adams County et al. NPRM Comments at 2 (stating that the commenting entities ''have not experienced increased costs, adverse impacts, or significant issues with the implementation of location-based routing''); Colorado Council of Authorities (CCOA) NPRM Reply at 3 (stating that ''deployments [of LBR for at least six Colorado 911 authorities] were successful and without significant issue or additional expense'').

[45] We note that AT&T indicated in July of last year that it had ''very few exceptions'' to its nationwide rollout, and indicated that ''a few PSAPs are using unique applications of Emergency Services Numbers to implement internal routing solutions. . . and that [the company was] working with these PSAPs to ensure [its] location-based routing solution meets their unique needs.'' AT&T PN Comments at 4, n.3. T-Mobile also notes that it is aware of ''at least one instance'' in which ''an emergency calling authority requested that another 911 vendor indefinitely suspend using LBR for 911 calls to its PSAPs because the vendor's LBR implementation resulted in a greater number of 911 calls that required transfer to another PSAP.'' T-Mobile NPRM Comments at 5. T-Mobile did not provide additional details on this occurrence, including when it occurred or whether or not the issue was resolved.

[46] BRETSA NPRM Comments at 3 (internal quotations omitted). Joseph Lyons, Dispatch Supervisor for the City of Poughkeepsie 911 Communications Center, also states that location-based routing is a ''no brainer.'' Joseph Lyons NPRM Comments at 1.

[47] Intrado NPRM Comments at 3, n.6. *See also* Colorado Public Utilities Commission (COPUC) NPRM Comments at 5–6 (''The implementation of location-based routing on all cell tower sectors is the best way to ensure that instances of misrouted calls are minimized to the greatest extent possible.'').

[48] Michigan State 911 NPRM Comments at 1 (''[H]aving some [CMRS providers] provide LBR while others do not, creates an expectation for callers that all wireless calls provide this information to 911 centers, and that 911 centers will be able to locate them when they are experiencing an emergency.'').

[49] *See, e.g.,* T-Mobile NPRM Comments at 3 (''T-Mobile cautions the Commission from adopting rules that require wireless carriers to do nothing more than turn on location-based routing regardless of PSAP preference.''); Verizon NPRM Comments at 2 (''[I]nstead of a blanket flash-cut nationwide implementation deadline, implementation should be based on PSAP requests. . . .''); CTIA NPRM Comments at 4 (''[A]ny obligation for a provider to commence use of LBR to route wireless 9–1–1 voice calls to a PSAP should only be triggered by a 'valid request' from a state or local 9–1–1 authority.''). One public safety commenter, the Colorado Council of Authorities (CCOA), also ''gives deference to the comments of T-Mobile, Verizon, and CTIA that deployment of LBR for wireless 911 voice calls should be initiated by a valid request from a PSAP or governing 911 authority.'' CCOA NPRM Reply at 1 (footnote omitted).

[50] Verizon NPRM Comments at 2; T-Mobile NPRM Comments at 3; iCert NPRM Comments at 2; RWA NPRM Comments at 4; Southern Linc NPRM Reply at 4; *see also* AT&T NPRM Comments at 3 (arguing for either a per-PSAP approach or ''a process under which a PSAP could signal that it requires more time to achieve readiness, and that PSAP would be carved out from the six-month requirement.'').

[51] CTIA NPRM Comments at 4 (stating that ''[t]o make a valid request, a PSAP should be technically ready to receive 9–1–1 calls routed using LBR''); CCA Notice of Proposed Rulemaking Reply at 6 (rec. Mar. 20, 2023) (CCA NPRM Reply); RWA NPRM Comments at 3.

[52] T-Mobile NPRM Comments at 7 (stating that a valid request must be conditioned on ''the provision of accurate shapefiles—and the maintenance and update of those shapefiles'').

[53] As Intrado notes, CMRS providers must implement a geospatial routing-capable Gateway Mobile Location Center (GMLC) in order to enable their networks to support location-based routing. Intrado NPRM Comments at 3.

is no additional preparation that must be made by the PSAP in order for carrier-provided LBR to be of benefit.''

29. AT&T's completed rollout of location-based routing on its nationwide network provides additional evidence that location-based routing can be successfully deployed without requiring PSAPs to demonstrate technical readiness. AT&T deployed location-based routing in 2022 on a region-by-region basis and completed its nationwide rollout in less than six months.[54] Moreover, although AT&T supports the Commission adopting a per-PSAP approach in which each PSAP would have to request location-based routing, it is notable that AT&T did not use this approach in its own rollout. Instead, AT&T deployed location-based routing to ''virtually all PSAPs'' in the U.S. without soliciting PSAP-by-PSAP requests or requiring each PSAP to demonstrate technical readiness. Thus, it does not appear that these are necessary prerequisite steps before CMRS providers implement location-based routing nationwide on their networks.

30. We also do not agree with commenters' assertions that PSAPs are not ready from an operational perspective to manage changes in call distribution or volume resulting from the implementation of location-based routing on a nationwide basis. T-Mobile asserts that ''[m]any emergency authorities want to understand the impact LBR will have on operations, call volume, and workflows before deploying it; they often also want the ability to implement reporting and tracking of call transfers prior to enabling LBR in order to understand and see the effects of the new 911 routing.'' [55] T-Mobile cites its initial implementation of location-based-routing in Minnesota and Texas,[56] where T-Mobile states that 911 authorities required First Office Applications (FOAs) before expanding deployment to more PSAPs. However, T-Mobile's initial deployments in those areas occurred at a time when no other carrier had deployed location-based routing for 911 anywhere in the U.S., which could reasonably lead the first PSAPs receiving location-based routed calls to take a cautious approach. Since then, AT&T has implemented location-based routing nationwide to thousands of PSAPs with no reported adverse operational impacts. To the contrary, the record indicates that PSAPs have reaped operational benefits from implementation of location-based routing in the form of reduced misroutes and call transfers.

31. CMRS providers' assertions about potential adverse operational impacts to PSAPs are also contradicted by virtually all statements of public safety commenters on the record. Despite industry commenters' preference,[57] the vast majority of public safety commenters support a rapid nationwide rollout of location-based routing and specifically oppose the per-PSAP approach advocated by CMRS providers. Only one public safety commenter, the Colorado Council of Authorities, Inc. (CCOA), supports the per-PSAP approach in order to ensure ''collaboration'' between PSAPs and service providers. We agree that such collaboration is important to the successful implementation of location-based routing, and we encourage PSAPs and 911 authorities to collaborate during the implementation period established. However, this does not require establishing a process in which every PSAP must affirmatively opt in to location-based routing. In fact, such a process would be far more cumbersome than a uniform nationwide implementation timetable and could lead to fragmented and inconsistent deployment. We agree with APCO that given the immediate feasibility of nationwide implementation, substantial voluntary deployment that has already occurred, and the clear public safety benefits of location-based routing, deployment and use of location-based routing should not be optional or conditional.

32. We are also not persuaded by commenters who compare implementation of location-based routing to past implementation of the Commission's E911 Phase I and Phase II location requirements [58] or text-to-911,[59] which were predicated on individual PSAPs achieving the technical capability to receive E911 location data and 911 texts, respectively.[60] For location-based routing, there is no similar reason to predicate CMRS provider compliance on PSAP technical capability, because AT&T's rollout demonstrates that PSAPs do not need to have any specific technical capabilities in place to receive calls routed using location-based routing. Accordingly, we agree with COPUC that ''[t]here is no compelling reason to require PSAPs to opt in to this service or to predicate the use of location-based routing methodology on any sort of 'readiness' of the PSAP.'' Implementing location-based routing on a per-PSAP basis could lead to uneven and inconsistent implementation of routing approaches between jurisdictions and result in a risk of wireless 911 misroutes for jurisdictions that do not request location-based routing service. We find that this would be contrary to the public interest and the Commission's interest in facilitating improved routing of wireless 911 voice calls.

33. Voluntary Implementation. We also decline to permit CMRS providers to deploy location-based routing on a

[54] AT&T Comments at 3. In a news release announcing AT&T's rollout of location-based routing, AT&T stated ''The nationwide rollout has started and is available in Alaska, Colorado, Hawaii, Idaho, Montana, Oregon, Washington, Wyoming, Kansas, Illinois, Iowa, Minnesota, North Dakota, Missouri, Nebraska, South Dakota and Guam. Additional regions will be rolled out over the next several weeks. The nationwide rollout is scheduled to be completed by the end of June.'' Press Release, AT&T, AT&T Launches First-Ever Nationwide Location-Based Routing with Intrado to Improve Public Safety Response for Wireless 9–1–1 Calls (May 10, 2022), at *https://about.att.com/story/2022/nationwide-location-based-routing.html.*

[55] T-Mobile NPRM Comments at 5 (emphasis omitted).

[56] *See* Metropolitan Emergency Services Board, Metropolitan Emergency Services Board 9–1–1 Technical Operations Committee July 15, 2021 Draft Meeting Minutes at 7, *https://mn-mesb.org/wp-content/uploads/July-TOC-Meeting-Packet-070921.pdf* (indicating that at the time of deployment in select counties in Minnesota, no other carriers had deployed or announced future deployment of location-based routing); Metropolitan Emergency Services Board, Metropolitan Emergency Services Board 9–1–1 Technical Operations Committee Agenda at 25 (Jan. 21, 2021), *https://mn-mesb.org/wp-content/uploads/January-Meeting-911-TOC-Packet-012121.pdf* (including a presentation from T-Mobile to Greater Harris County, Texas, indicating that ''[t]oday, T-Mobile is the only wireless carrier positioned to route 911 calls based on caller location, rather that [sic] cell sector'').

[57] T-Mobile NPRM Comments at 5; *see also* iCERT NPRM Comments at 2 (arguing for a per-PSAP approach as location-based routing ''may impact a PSAP's operations'').

[58] T-Mobile NPRM Comments at 4; CCOA NPRM Reply Comments at 1–2; *see also* 47 CFR 9.10(d)(1), (f), (g), (m).

[59] T-Mobile NPRM Comments at 4; CTIA NPRM Comments at 4; *see also* 47 CFR 9.10(q)(10)(ii) and (iii).

[60] To receive texts, PSAPs must either upgrade their equipment to receive text messages or implement text-to-911 capabilities on existing equipment. *T911 Second Report and Order,* 29 FCC Rcd at 9861, para. 32, 79 FR 55367 (September 16, 2014). To receive Phase I location information, PSAPs must use switches, protocols, and signaling systems that will allow them to obtain the calling party's number from the transmission of ANI. *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems,* CC Docket No. 94–102, RM–8143, Report and Order, 11 FCC Rcd 18676, 18709, para. 63 n.119 (1996), 61 FR 40348 (August 2, 1996). To receive Phase II location information, PSAPs must ''install equipment to determine the geographic coordinates of the caller, transfer that information through the telephone networks, and have a mapping system in place at the PSAP that can display the latitude and longitude coordinates of the caller as a map location for dispatching assistance.'' General Accounting Office, Uneven Implementation of Wireless Enhanced 911 Raises Prospect of Piecemeal Availability for Years to Come, GAO–04–55, at 9 (Nov. 2003), *https://www.gao.gov/assets/gao-04-55.pdf.*

purely voluntary basis. Wireless entities supporting voluntary implementation argue that flexibility in implementation is needed to account for differences in providers' networks and devices and to allow technologies to continue to evolve.[61] However, public safety commenters note that permitting CMRS providers to deploy location-based routing on a purely voluntary basis would require additional and unnecessary coordination and would only delay the implementation of location-based routing as a general matter. The record confirms the Commission's reasoning in the notice of proposed rulemaking that relying on voluntary implementation would ''result in inconsistent routing of calls to PSAPs and a higher risk of 911 misroutes for subscribers on CMRS networks that did not support location-based routing.'' Thus, we find that allowing CMRS providers to implement location-based routing on a voluntary basis would undermine our goal of ensuring that this important capability benefits all wireless 911 callers nationwide.

b. Technical Considerations

34. Technological Feasibility. We find that implementing location-based routing for wireless 911 voice calls is technologically feasible for nationwide and non-nationwide CMRS providers. The three nationwide CMRS providers have implemented location-based routing for wireless 911 voice calls across or for some part of their networks. CCA, an industry association with membership including non-nationwide CMRS providers, states that ''wireless carriers can eventually deploy location-based routing to any PSAP'' if provided with adequate time and financial support. iCERT agrees that location-based routing is technologically feasible. NGA 911 also offers support for this conclusion, stating that both Google's Emergency Location Service (ELS) and Apple's Hybridized Emergency Location (HELO) provide a device location estimate, and these mobile operating systems comprise 99.62% of the handset market. NENA states that AT&T's nationwide deployment of location-based routing demonstrates that ''transitional location-based routing mechanisms are technically feasible and improve 9–1–1 outcomes, and are in use today.'' No commenter argues that implementing location-based routing on CMRS provider networks is technologically infeasible.

35. Calls originating on IP-based networks. In light of the technical obstacles and ongoing retirement of legacy networks, we apply our location-based routing requirements to IP-based networks but we decline to require location-based routing for 911 calls originating on circuit-switched, time-division multiplex (TDM) networks. This is consistent with the Commission's proposal in the notice of proposed rulemaking and is supported by commenters. For example, the Rural Wireless Association (RWA) agrees that requiring location-based routing for 911 calls originating on TDM networks would be unduly burdensome. CCA asserts that ''TDM networks can lack the speed and capacity necessary to transmit and evaluate confidence and uncertainty information and query the location server for PSAP routing instructions prior to the time for a call to commence.'' ATIS assumes for purposes of *ATIS–0700042* that location-based routing is only supported on originating networks supporting Long Term Evolution (LTE) and beyond.[62]

36. PSAP Boundary Maps. Some commenters contend that location-based routing requirements should be conditioned on 911 authorities providing updated maps or shapefiles of PSAP boundaries to CMRS providers. We conclude that such a condition is unnecessary. We recognize that accurately mapping PSAP jurisdictional boundaries is important to the accurate routing of 911 calls. However, the record demonstrates that CMRS providers and the third-party vendors they use to route 911 calls already have maps and shapefile records of PSAP boundaries generated to support earlier E911 deployments and upgrades,[63] and that ''numerous companies'' maintain PSAP boundary shapefile information to support CMRS 911 call routing. CMRS providers have long used this information to support legacy tower-based routing of 911 voice calls.[64] Moreover, the Commission has never conditioned the 911 routing obligations of CMRS providers on PSAPs or 911 authorities providing mapping data. As NASNA explains, legacy and E911 routing ''relies on tabular location databases that are updated by the originating service provider,'' and 911 authorities may support the maintenance and quality assurance of these databases, but ''there are no rules addressing how frequently this data must be updated, nor is there transparency when data updates are operationalized.''

37. The record indicates that CMRS providers and their vendors can use existing PSAP boundary information to support location-based routing to the same extent that such information has supported tower-based routing. The purpose of this information is to associate a specified location—whether it is the caller's location or the tower location—with the jurisdiction served by a particular PSAP, and CMRS providers are already using this information to support their implementation of location-based routing. If PSAP boundary maps are not updated to reflect current jurisdictional boundaries, it is possible that some calls originated near those boundaries could be misrouted even when location-based routing is used. However, the overall frequency of misroutes is still likely to be lower than with tower-based location because tower-based location routes all calls in a cell sector to the same PSAP regardless of the jurisdiction where the caller is located. For example, GCI states that ''existing shapefiles could likely be used to route calls using more precise on-device location'' information on its network, although the importance of updated maps may be affected in some locations by factors such as population density near the PSAP boundary area, the number of PSAPs served, and the density of cell sites. BRETSA comments that the record does not indicate whether the provider of the PSAP boundary maps AT&T is relying on ''could and would also provide them to non-national providers and on what terms.'' As noted above, we conclude

[61] CTIA NPRM Reply at 3 (urging the Commission to provide flexibility for wireless providers to implement location-based routing in the manner that meets their ''unique network and handset configurations'' and is coordinated with public safety); *see also* CCA NPRM Reply at 1–2.

[62] *ATIS–0700042* at 6. CCA argues that limiting location-based routing to IP-based wireless networks provides ''an important increment of regulatory relief'' but notes that this relief is limited because many non-nationwide carriers have already retired non IP-based technology. CCA NPRM Comments at 12. CCA also asserts that limiting location-based routing to IP networks does not reduce costs burdens on the wireless sector. *Id.* at 12–13. Nonetheless, we find that this provision will ease burdens for CMRS providers that have not yet transitioned to IP-based networks.

[63] *See* Verizon July 13, 2023 *Ex Parte* at 1 (''If Verizon has a [s]hapefile of the PSAP's boundaries due to earlier E911 deployments or upgrades, the PSAP may be able to simply confirm that the earlier document remains accurate.''); GCI Aug. 7, 2023 *Ex Parte* at 5 (''GCI's network serves geographic areas where the boundaries between PSAP service areas are sparsely populated or unpopulated, in general. Therefore, the existing shapefiles could likely be used to route calls using more precise on-device location as well.'').

[64] *See* NASNA NPRM Comments at 4 (''Legacy and enhanced 911 relies on tabular location databases that are updated by the originating service providers (OSPs), and maintained by the 911 service provider to act as the authoritative source of location information used to validate the location of the 911 caller.'').

that it is not necessary for AT&T's provider of PSAP boundary maps to provide them to other CMRS providers, who should be able to use their existing sources of boundary maps.

38. While we do not require PSAPs to provide updated shapefiles as a prerequisite to location-based routing, we recognize that location-based routing is most effective when service providers use up-to-date shapefiles that precisely and accurately identify jurisdictional boundaries for routing purposes. In addition, we recognize that 911 authorities and PSAPs are the most authoritative source for current jurisdictional boundary information. Therefore, we encourage CMRS providers and their third-party vendors to work with 911 authorities and PSAPs to ensure that location-based routing decisions on CMRS provider networks are based on shapefiles that accurately reflect current boundaries. NENA suggests establishment of an ''authoritative database for PSAP boundary information'' and states that with sufficient funding and appropriate governance, this tool could be expanded to serve as the industry's authoritative reference for location-based routing purposes. We encourage 911 authorities, relevant industry groups, and CMRS providers to consider further whether such a database is needed, what steps to take, and what parties should take them.

39. NG911 Geospatial Routing. NASNA and the Texas 9–1–1 Entities suggest that as jurisdictions transition to NG911, location-based routing by CMRS providers may not be necessary and could cause delay in call routing by NG911-capable jurisdictions that will use ESInets and geospatial routing to route calls to individual PSAPs.[65] While these parties are correct that NG911 will introduce new geospatial routing mechanisms, this does not obviate the need for the location-based routing requirements we adopt, nor will these requirements impede NG911 call routing.

40. First, while many states have already made significant commitments to implementing NG911, the NG911 transition remains ongoing, and there are no fully enabled NG911 systems yet operating. As COPUC notes, ''most 911 call delivery networks do not have the ability to provide geospatial routing at this time and it is unknown when such technology will be universally deployed. Requiring CMRS providers to deploy LBR in the meantime is essential . . . .'' [66] We agree.

41. Second, the provision of location-based routing information by CMRS providers will remain essential in the NG911 environment because NG911 systems will need this information to perform the additional geospatial routing functions necessary to direct 911 calls to the correct PSAP behind the ESInet.[67] APCO notes that ''[w]ireless service providers perform routing functions before passing a 9–1–1 call or text to a 9–1–1 network—regardless of whether the 9–1–1 network is legacy or IP-based—and even if such networks are able to perform an additional routing function, carriers should remain responsible for first engaging in location-based routing.'' BRETSA further notes that location-based routing ''is not inconsistent with the eventual transition to full i3 NG9–1–1.'' [68] Finally, we do not agree that location-based routing implemented on CMRS networks consistent with the proposed rules will introduce delay into NG911 call routing. The location-based routing requirements we adopt expressly apply only when location information meeting the accuracy threshold is available at time of routing. Thus, these requirements will not delay delivery of 911 calls in either the legacy E911 environment or the NG911 environment.[69]

c. Compliance Timelines

42. Overview. We require nationwide CMRS providers to comply with the location-based routing requirements within six months after the effective date of the final rules, as proposed in the notice of proposed rulemaking. We require non-nationwide CMRS providers to comply with the location-based routing requirements within 24 months after the effective date of the final rules, a time frame which is six months longer than the eighteen months proposed in the notice of proposed rulemaking. We also permit a PSAP and a CMRS or covered text provider to set, by mutual consent, alternative deadlines to implement location-based routing in the PSAP's jurisdiction that are different from those otherwise established by the rules.

43. Nationwide CMRS Providers. We require nationwide CMRS providers to comply with the location-based routing requirements within six months after the effective date of the final rules, as proposed in the notice of proposed rulemaking. NENA, COPUC, NASNA, DISA, and iCERT support the proposed six-month timeline for nationwide CMRS providers, and no commenter indicates that it would be infeasible or burdensome for nationwide CMRS providers to complete the implementation of location-based routing within six months. The three nationwide CMRS providers have already deployed or are actively working toward deploying location-based routing capabilities on their networks, indicating that they have made substantial progress in implementing this technology at the network level.[70] AT&T has already deployed location-based routing on a nationwide basis. Verizon has indicated that it is ''turning up Location-Based Routing for hundreds of PSAPs nationwide'' and directs ''PSAPs that are interested in deploying Location Based Routing to contact Verizon engineers.'' This statement indicates Verizon's readiness to deploy location-based routing and that Verizon has made necessary progress to implement the technology at the network level. T-Mobile was the first to deploy this technology on its network in 2020 and as of December 2023 had fully implemented location-based routing for 1,591 PSAPs with an additional 596 PSAPs in progress, which indicates that

[65] NASNA NPRM Comments at 11 (''By definition, LBR will introduce delay into the delivery of the 911 call or text to NG911 that is no longer needed with a fully functional NG911 system that is using geospatial routing.''); Texas 9–1–1 Entities NPRM Comments at 4 (noting that the NG911 transition in some areas ''may potentially make it unnecessary for some CMRS providers to make LBR modifications to their existing legacy 9–1–1 solutions, at least in those areas'').

[66] NASNA NPRM Comments at 6 (''For localities that have deployed any form of NG911 this unrestricted access to 911 call routing data is mission critical. . . .'').

[67] *See* Verizon NPRM Comments at 3 (stating that some jurisdictions ''have implemented their own form of LBR and prefer that originating service providers not also perform LBR on a call'').

[68] BRETSA NPRM Reply Comments at 5; *see also* Intrado PN Comments at 10 n.14 (''Implementing LBR on the carrier side has the added benefit of avoiding any potential adverse consequences to the present transitional NG911 environment and eventual NG911 end state. In fact, LBR (and the enhanced location information behind it) will work hand-in-hand with the PSAPs ongoing NG911 adoption of IP-based, geospatial ESInets.'').

[69] *See* Intrado NPRM Comments at 5 (''[T]he carrier GMLC now has sufficient information and time with 4G/5G to determine, transmit and evaluate confidence and uncertainty of device-based location information and to query the location server for PSAP routing instructions before the time to route.'').

[70] AT&T completed the rollout of location-based routing on its network in June 2022 and uses location-based routing to deliver wireless 911 voice calls and texts to nearly all PSAPs nationwide. AT&T PN Comments at 4; AT&T NPRM Comments at 1. T-Mobile launched location-based routing on its network in the states of Texas and Washington in 2020 and as of December 2023 has fully implemented location-based routing for 1,591 PSAPs with an additional 596 PSAPs in progress. T-Mobile NPRM Comments at 3–5; T-Mobile PN Reply at 2 n.6. In December 2023, Verizon reported that it had initiated location-based routing for 414 PSAPs with an additional 277 PSAPs in progress. Verizon Dec. 7, 2023 *Ex Parte* at 1.

it has made progress on implementing the technology on a network level.

44. The nationwide CMRS providers do not argue for an implementation timeline that is longer than six months from the effective date of the rules. Instead, T-Mobile, AT&T, Verizon, and CTIA support a six-month timeline for nationwide providers conditioned on each PSAP requesting location-based routing and demonstrating technical and operational readiness. As discussed above, we have determined that a per-PSAP request mechanism would delay the critical benefits of a nationwide deployment of location-based routing and is not a necessary component to ensure PSAP operational continuity during the transition. Industry commenters' arguments nevertheless indicate that nationwide providers are capable, from both a technical and cost perspective, of deploying location-based routing within a six month timeframe. Indeed, if the Commission were to adopt a per-PSAP request mechanism and all or virtually all PSAPs opted in immediately, the nationwide CMRS providers would effectively be required to deploy location-based routing nationwide within six months. Finally, we accord little weight to AT&T's request to condition CMRS provider compliance timelines on PSAP requests, as AT&T deployed location-based routing on a nationwide basis and states that it ''was able to deploy location-based routing to virtually all PSAPs within a six-month timeframe,'' with few exceptions.

45. Some commenters point out that the nationwide CMRS providers had several years to plan and carry out their voluntary implementation of location-based routing. However, we disagree that this argues in favor of allowing the nationwide providers more than six months to complete nationwide implementation. Location-based routing technology is no longer nascent, unknown to PSAPs, or unproven. Use of location-based routing has expanded significantly since 2020, when T-Mobile first deployed it, technical standards now exist for its implementation, all three nationwide carriers have deployed it on their networks, and public safety is aware of and eager for this improved routing technology. Given the extent of this progress, we believe that six months is more than adequate for nationwide CMRS providers to implement location-based routing nationwide. We therefore find that six months from the effective date of the rules provides adequate time for these providers to complete the implementation on their networks. NENA, COPUC, NASNA, DISA, and iCERT support the proposed six-month timeline for nationwide CMRS providers, and no commenter indicates that it would be infeasible or burdensome for nationwide CMRS providers to complete the implementation of location-based routing within six months.

46. APCO, Adams County et al., and Fenwick support a timeline shorter than six months for nationwide providers to deploy location-based routing. We decline to adopt a shorter mandatory timeline, as it is unclear whether it is feasible for all three nationwide CMRS providers to complete their deployment of location-based routing in fewer than six months. However, nationwide CMRS providers may deploy location-based routing voluntarily prior to the compliance deadline.

47. Non-Nationwide CMRS Providers. In the notice of proposed rulemaking, the Commission proposed an 18-month timeline for non-nationwide CMRS providers to implement location-based routing.[71] We received mixed comments on this issue. NASNA, iCERT, and COPUC support the proposed 18-month timeline for non-nationwide CMRS providers,[72] while other public safety entities argue for a shorter timeline.[73] On the other hand, CMRS provider commenters generally support a longer timeline for non-nationwide CMRS providers to implement location-based routing. CTIA states that ''non-nationwide providers need more time to deploy LBR capability than the 18 months proposed in the NPRM due to the significant costs and technical modifications necessary to implement LBR.'' GCI recommends that non-nationwide CMRS providers be given a timeline of at least 24 months or potentially longer. RWA recommends that small rural CMRS providers be given 36 months to implement location-based routing.[74] CCA asserts that non-nationwide providers need at least four years to ''select, test, modify, perfect, and deploy'' location-based routing, stating that AT&T's deployment took four years and that ''[m]ost CCA member companies do not possess anywhere near the scope and scale of resources that AT&T enjoys.'' Southern Linc agrees with CCA's concerns that non-nationwide CMRS providers may require considerably longer than 18 months.

48. The Commission has previously recognized that non-nationwide CMRS providers can face obstacles that warrant additional time for compliance beyond the time afforded to nationwide CMRS providers during technology transitions. Smaller CMRS providers may have difficulty obtaining necessary commitments from device makers, technology vendors, and software service providers to implement location-based routing within a time frame that would be feasible for nationwide CMRS providers. We therefore adopt a timeline of twenty-four months (two years) from the effective date of the rules for non-nationwide CMRS providers to deploy and begin using location-based routing. This timeline provides an additional 18 months beyond the deadline applicable to nationwide CMRS providers. We adopt this extended timeline in recognition of the obstacles that non-nationwide CMRS providers may encounter in deploying location-based routing on their networks. We also anticipate that the additional time will assist non-nationwide CMRS providers in absorbing capital costs. It is consistent with past Commission decisions to permit non-nationwide CMRS providers additional time to

[71] Notice of Proposed Rulemaking, 37 FCC Rcd at 15195, para. 26.

[72] NASNA NPRM Comments at 11 (agreeing with 18-month timeline for non-nationwide CMRS providers); iCERT NPRM Comments at 2 (supporting 18-month timeline for non-nationwide CMRS providers); COPUC NPRM Comments at 3 (agreeing with the 18-month timeline for non-nationwide CMRS providers); *see also* NENA Comments at 3 (stating, as a general matter, that ''the Commission has proposed sufficient compromises to avoid undue burden on the wireless industry, such as a later implementation date for non-nationwide CMRS providers'').

[73] Adams County et al. NPRM Comments at 2 (stating that 18-month implementation schedule for non-nationwide CMRS providers is ''acceptable,'' but noting that ''[s]ooner is better''); APCO NPRM Comments at 3. BRETSA comments that non-nationwide CMRS providers have not yet determined the actual cost and time required to implement location-based routing, and urges the Commission to require non-nationwide CMRS providers to implement location-based routing within six or twelve months (*i.e.,* rather than eighteen months) and to ''grant waivers or extensions upon showings of the actual costs of and impediments to deployment.'' BRETSA NPRM Reply at ii; *id.* at 13 (''Such an approach would allow providers a reasonable time to implement LBR, while avoiding unnecessary delay and impacts upon victims of accidents, illnesses, crimes, and fires.''). BRETSA also suggests that in rural areas, which generally have a lower incidence of misroutes (*e.g.,* because a single PSAP serves the entire county), regional wireless providers should have an ''earlier date for implementation of LBR,'' with deployment prioritized based on the level of misroutes, and ''allowing a longer overall phase-in period.'' BRETSA NPRM Comments at 7–8.

[74] RWA NPRM Comments at 1–3. RWA discusses reasons smaller carriers require more time and financial support, including that ''many RWA members are in the midst of efforts to 'rip and replace' unsecure Huawei and ZTE equipment in their networks,'' *id.* at 2, which is a ''top priority over regulatory compliance unrelated to national security.'' *Id.* at 3. RWA requests small rural CMRS providers have 36 months from effective date of final rules to implement, ''and then only if the PSAP is capable of handling the call routing.'' *Id.* at 3.

accommodate technology transitions.[75] Based on the progress that nationwide CMRS providers have made and that some non-nationwide CMRS providers advocate for a 24-month timeline, it is our predictive judgment that the 24 months afforded will be sufficient from both technological feasibility and cost perspectives for non-nationwide CMRS providers to implement location-based routing. If individual CMRS providers encounter unique or unusual factual circumstances that support a lengthier timeline, they may seek a waiver under the Commission's waiver rules.[76]

49. We decline to extend the timeline for compliance for non-nationwide CMRS providers to thirty-six months or four years, as advocated by RWA and CCA, respectively. RWA argues that small non-nationwide CMRS providers should have 36 months to comply with location-based routing requirements because they are simultaneously focusing ''substantial time and attention'' on replacing network equipment under the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program), which they assert takes ''top priority over regulatory compliance unrelated to national security.'' We see no basis for extending the 24-month location-based routing timeline for non-nationwide CMRS providers based on their concurrent obligations under the Reimbursement Program. Protecting national security and ensuring effective 911 emergency response are both important regulatory obligations that all CMRS providers must meet. We reject the view that one takes priority over the other. In addition, RWA has failed to show how the timeline for the Reimbursement Program would conflict with non-nationwide provider implementation of location-based routing when Reimbursement Program removal, replacement, and disposal deadlines are determined on an application-specific basis [77] and may be extended pursuant to the conditions set forth in the Secure and Trusted Communications Networks Act and the Commission's rules.[78]

50. RWA also argues that location-based routing should only be required ''to the extent that there is federal financial support afforded to small providers for the cost of compliance and additional time afforded for compliance beyond that proposed in the NPRM.'' The Commission has never conditioned CMRS providers' compliance with 911 obligations on the receipt of Federal funding and we decline to do so. Further, the record does not provide compelling evidence that such funding is necessary. RWA fails to provide any specific estimates as to the actual cost of compliance for its members or to otherwise document a need for Federal financial support.[79] Without information on the actual cost of compliance or specific impacts of such compliance on CMRS providers, naked claims that Federal financial support is necessary in order for CMRS providers to comply with the Commission's 911 requirements lack merit. As noted above, if an individual CMRS provider encounters unique or unusual factual circumstances, it may seek a waiver under the Commission's waiver rules.[80]

51. CCA argues that a four-year timeline is needed to account for ''levels of support the nation's smaller wireless carriers typically receive from device makers, technology vendors, and software service providers and with the continued, incremental progress of PSAP systems in all areas of the country to support the location-based routing of emergency communications.'' However, CCA has not documented the need for a four-year timeline as opposed to twenty-four months to address the specific obstacles faced by these providers. Once nationwide CMRS providers complete their six-month deployment obligation, non-nationwide providers will have 18 months to engage with device makers, vendors, and consultants. In addition, as noted above, the timeline is not dependent on PSAPs making ''incremental progress'' to support location-based routing because PSAPs do not need to take any specific technical steps to be ready to receive location-based routed calls.

52. CCA and RWA also argue that non-nationwide CMRS providers should be afforded a four-year timeline because ''AT&T required four years to deploy location-based routing.'' We disagree. First, AT&T states that it was able to deploy location-based routing to virtually all PSAPs within six months, not four years as asserted by CCA and RWA.[81] Second, even if AT&T or other nationwide CMRS providers took additional time to plan early implementation of nationwide location-based routing across their networks, it does not follow that non-nationwide CMRS providers need the same amount of time *after* the nationwide CMRS providers have completed their implementations.[82] BRETSA notes that other providers are likely to require less time than AT&T to deploy location-based routing because ''AT&T has already developed the solution and provided a roadmap for implementation of LBR.'' In fact, the nationwide CMRS providers have already done critical work to enable location-based routing by adopting highly accurate handset-based location, which AT&T has confirmed ''is available for location-based routing on the vast majority of iOS and Android devices.'' The nationwide carriers have also validated that location-based routing can be used for the vast majority of wireless 911 calls and that it does not result in additional call delay or an increase in abandoned 911 calls. We agree with iCERT that existing support for location-

[75] For example, for horizontal location accuracy requirements, certain benchmarks for non-nationwide CMRS providers are tied to the deployment of specifical technical capabilities, which has permitted additional time for compliance. *See* 47 CFR 9.10(i)(2)(i)(B)(*3*), (*4*). For vertical location accuracy requirements, certain non-nationwide CMRS providers are permitted an additional year to meet relevant benchmarks. *See* 47 CFR 9.10(i)(2)(ii)(F).

[76] 47 CFR 1.925.

[77] FCC, *Secure and Trusted Communications Networks Reimbursement Program Second Report* at 4 (July 10, 2023), *https://docs.fcc.gov/public/attachments/DOC-395005A1.pdf*. *See Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18–89, Second Report and Order, 35 FCC Rcd 14284, 14354, para. 170 (2020), 86 FR 2904 (January 13, 2021). The Commission may grant recipients extensions of this term on an individual basis. *See* Secure and Trusted Communications Networks Act of 2019, Public Law 116–124, section 4(d)(6)(C), 134 Stat. 158, 163 (2020) (Secure Networks Act) (codified at 47 U.S.C. 1603(d)(6)(C)).

[78] A Reimbursement Program recipient may request and the Commission may grant an individual extension of a recipient's removal, replacement, and disposal term for a period of up to six months after the Bureau finds, that due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term. 47 CFR 1.50004(h)(2); *see also* Secure Networks Act section 4(d)(6)(C); *see also, e.g., Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18–89, Order, DA 23–875, at 1, para. 1 (WCB Sept. 22, 2023) (granting Stealth Communications Services, LLC's request for extension from September 29, 2023 until March 29, 2024); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18–89, Order, DA 23–938 (WCB Oct. 10, 2023) (granting extension of time requests by WorldCell Solutions, LLC, Mediacom Communications Corporation, Virginia Everywhere, LLC, James Valley Cooperative Telephone Company, and NE Colorado Cellular, Inc. d/b/a Viaero Wireless); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18–89, Order, DA 23–1016 at 1, para. 1 (WCB Oct. 27, 2023) (granting extension of time requests of Point Broadband Fiber Holding, LLC and SI Wireless, LLC).

[79] RWA NPRM Comments at 1, n.3 (acknowledging that ''RWA members have received no specific vendor estimates as to the actual cost of compliance'').

[80] 47 CFR 1.925.

[81] AT&T NPRM Comments at 3 (''AT&T was able to deploy location-based routing to virtually all PSAPs within a six-month timeframe.'').

[82] *See* Intrado PN Comments at 10 (''AT&T's implementation model provides a roadmap to the other carriers.'').

based routing by nationwide carriers ''provides ample evidence that LBR will soon be ready for wider implementation.''

53. CCA also argues that non-nationwide CMRS providers need longer timelines to ensure network reliability and quality of service before undertaking network-wide location-based routing implementation. Again, CCA fails to provide specific examples of how non-nationwide CMRS providers' network reliability and quality of service would be compromised by implementing location-based routing within a 24-month timeline. CCA also asserts that non-nationwide CMRS providers may use ''different LTE and 5G–NR network specifications'' than the nationwide providers and that it will be challenging for non-nationwide CMRS providers to implement location-based routing given the ''array of potentially viable standards any one of which might, over time, fail to achieve scale and fall behind the other standards in features, support, and adoption.'' We believe a 24-month timeline is sufficient to address these issues. As BRETSA notes, non-nationwide CMRS providers have not provided specific vendor estimates as to the actual cost to implement location-based routing. We agree with BRETSA that nationwide CMRS providers have provided a path for implementing location-based routing, and there is no reason to delay implementation by non-nationwide CMRS providers beyond the two years afforded. We conclude that the considerable benefits of improved 911 routing should extend to all callers, including subscribers to non-nationwide CMRS providers' services, and that delaying improved 911 routing by more than 24 months would be inequitable for these subscribers.

54. Some entities representing non-nationwide CMRS providers argue that location-based routing will provide minimal improvement in the areas which their members serve, and therefore that the Commission either should not require location-based routing or should further delay compliance with location-based routing rules for non-nationwide CMRS providers. CCA asserts that ''location-based routing may not provide any meaningful improvement over the status quo at the cost of dangerously longer call set up times'' for smaller CMRS providers that tend to serve less densely populated areas.[83] Alaska Telecom notes that Alaska's unique situation of geography and low population areas means fewer misroutes and less benefit from location-based routing, such that ''costs that carriers will bear to implement LBR on a short timescale will far outstrip the potential benefits.'' We acknowledge that the advantages of location-based routing in comparison to legacy E911 routing may not be uniform across all areas or across all CMRS providers. However, we agree with Intrado that ''[e]ven in low misroute areas, LBR implementation will result in a significant reduction in misroutes compared to the current system of exclusively relying on tower-based routing.'' The benefits of improved routing should accrue to all 911 callers nationwide, across jurisdictions and CMRS providers, and 911 authorities have articulated a clear need for consistent routing technology across CMRS providers. We therefore decline to exempt or postpone location-based routing implementation on the basis that it may provide less benefit in some areas than others.

55. Modification of Deadlines by Agreement. We recognize that there may be some narrow scenarios in which individual PSAPs need additional time to facilitate location-based routing.[84] AT&T states that while it was able to deploy location-based routing to virtually all PSAPs within six months, ''some PSAPs required special attention and more time.'' To provide flexibility for PSAPs that request it, we adopt a rule allowing a PSAP and a CMRS provider to set, by mutual consent, deadlines to implement location-based routing in the PSAP's jurisdiction that are different from those otherwise established by the rules. For example, the parties may mutually agree to extend the provider's timeline for location-based routing implementation in the PSAP's jurisdiction. We emphasize that parties may not use this exception to delay implementation and deployment of location-based routing indefinitely. Accordingly, in the event of any agreement to an alternate time frame for implementing location-based routing, we require the CMRS provider to notify the Commission of the agreed-to dates within 30 days of the parties' agreement or 30 days from the effective date of the final rules, whichever is later.[85] The CMRS provider must subsequently notify the Commission of the actual date by which it comes into compliance with the location-based routing requirements, within 30 days of that actual date of compliance or 30 days from the effective date of the final rules, whichever is later.

2. Text-to-911

56. We require nationwide and non-nationwide CMRS providers to deploy and use location-based routing for RTT communications to 911 within 24 months from the effective date of the final rules adopted. This is a modification of the rules proposed in the notice of proposed rulemaking, which would have required CMRS providers and all other covered text providers to deploy and use location-based routing for all 911 texts within 18 months.[86] We extend the compliance timeline from 18 to 24 months in order to align compliance timelines for RTT communications to 911 with the compliance timelines for non-nationwide providers to implement location-based routing for wireless 911 voice calls. In addition, we limit our rules to the routing of RTT communications to 911 by CMRS providers. We decline at this time to extend location-based routing requirements to SMS text messages to 911, both because industry has not yet developed standards for implementing location-based routing on SMS networks and to avoid requiring providers to retrofit legacy SMS networks. We similarly defer extending location-based routing requirements to interconnected text providers.

57. Location-Based Routing for RTT. We find that it is technologically feasible for CMRS providers to enable location-based routing for RTT communications. Because RTT is an IP-native service, RTT communications are processed on IP-based networks

[83] CCA NPRM Comments at 2–3. As discussed herein, the Commission's location-based routing rules require providers to route on precise location information that is available at the network at time of routing, which renders moot the potential need for call holding.

[84] *See, e.g.,* T-Mobile NPRM Comments at 5 (stating that ''in at least one instance, T-Mobile is aware that an emergency calling authority requested that another 911 vendor indefinitely suspend using LBR for 911 calls to its PSAPs because the vendor's LBR implementation resulted in a greater number of 911 calls that required transfer to another PSAP''); AT&T PN Comments at 4 & n.3 (stating that AT&T completed its location-based routing deployment by the end of June 2022 ''with very few exceptions'' and stating that ''[a] few PSAPs are using unique applications of Emergency Services Numbers to implement internal routing solutions'' and that AT&T is ''working with these PSAPs to ensure [its] location-based routing solution meets their unique needs'').

[85] CMRS providers must file such notifications in PS Docket No. 18–64.

[86] Notice of Proposed Rulemaking, 37 FCC Rcd at 15197, para. 33. The term '''covered text provider' includes all CMRS providers as well as all providers of interconnected text messaging services that enable consumers to send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones.'' 47 CFR 9.10(q)(1).

similarly to voice calls originating on IP-based networks. According to NENA, an RTT session is ''handled and routed the same way as a voice call and delivers location just as a voice call would.'' [87] We agree with NENA that our rules ''should reflect this reality.'' In addition, because RTT resembles voice calling in that it is a real-time, two-way service, the user experience of RTT is likely to be similarly sensitive to the delays associated with misroutes. Given the technical similarities with processing voice calls originating on IP-based networks and strong support for implementing requirements for location-based routing for text-to-911 as a general matter, we adopt a requirement for location-based routing for RTT communications to 911 consistent with the requirements we adopt for wireless 911 voice calls originating on IP-based CMRS networks. In addition, commenters specifically support location-based routing for RTT communications.[88] CMRS providers urge the Commission to incentivize both PSAPs and CMRS providers to move toward next generation texting technologies such as RTT. We find that these requirements will help to ensure that the benefits of location-based routing extend to RTT users as more CMRS providers implement RTT service. We note that this rule is not intended to expand CMRS providers' existing obligations to deploy RTT capabilities to PSAPs beyond what is already required by the Commission.[89]

58. Compliance Deadlines for Location-Based Routing for RTT. We require CMRS providers to implement location-based routing for RTT within 24 months after the effective date of the final rules on location-based routing. This timeline is six months longer than the eighteen-month period the Commission proposed in the notice of proposed rulemaking for all covered text providers to route all texts to 911. Most of the comments received on timelines address 911 texts in general, without specifically addressing issues related to RTT implementation in particular.[90] Some commenters support the originally proposed 18-month timeline for text-to 911,[91] while others support a shorter timeline. NASNA suggests that ''it may be more appropriate to apply the same implementation timeframes for 911 texts that are being applied to voice 911 calls.'' Other commenters urge that covered text providers be given a longer timeline to implement location-based routing. For example, Verizon notes that several parties echo its own comments regarding the need for a longer implementation period for 911 texts. Verizon ''expects that an implementation period of 18–24 months for a 'best available location' approach could be technically feasible, *provided that* the rules afford wireless providers flexibility in the location query methods and per-call thresholds governing whether precise versus coarse location is used for routing.'' [92]

59. We conclude that a timeline of 24 months after the effective date of the rules is technically feasible for CMRS providers to implement location-based routing for RTT. We also believe that 24 months will provide sufficient time for both nationwide and non-nationwide CMRS providers to implement location-based routing for RTT. We decline to adopt a shorter timeline for nationwide CMRS providers and instead opt, consistent with the notice of proposed rulemaking, to apply the same timetable to all providers for implementation of location-based routing for RTT communications. Unlike for 911 voice calls, the extent to which nationwide CMRS providers have implemented location-based routing for RTT is not clear, though we note that T-Mobile and Verizon explicitly support this step. In addition, few PSAPs have developed the capability to receive end-to-end RTT communications.[93] Since RTT remains in the early stages of development, we believe that a unified timeline for nationwide and non-nationwide CMRS providers is consistent with the approach in the Commission's existing text-to-911 rules, which do not distinguish between nationwide and

[87] NENA NPRM Reply at 10. Unlike SMS text-to-911, which uses a Text Control Center for routing, ''RTT uses the existing IP-based voice architecture.'' NENA, NENA PSAP Readiness for Real-Time Text (RTT) Information Document, NENA–INF–042.1–2021 at 10 (Jan. 20, 2021), *https://cdn.ymaws.com/www.nena.org/resource/resmgr/standards/nena-inf-042.1-2021_rtt_appv.pdf* (*NENA RTT Information Document*). The RTT communication ''enters the Common IMS Network via the Proxy/Emergency Call Session Control Functions (P/E–CSCF) which provide the routing functions.'' *NENA RTT Information Document* at 13. This is also how wireless 911 voice calls originating on IP-based networks are processed. *See ATIS–0700015.v005* (''[The P–CSCF] receives the emergency call from the User Equipment via the Access Network. The P–CSCF detects that the call is an emergency call and forwards it to/toward the E–CSCF.''). Then, ''[t]he Common IMS Network will acquire location using the Location Retrieval Function (LRF) and Location Server (LS) and determine the routing using the Routing Determination Function (RDF).'' *NENA RTT Information Document* at 13. Again, this is also how wireless 911 voice calls originating on IP-based networks are processed. *See ATIS–0700015.v005* at 24 (''The LRF obtains location information associated with the emergency call (by interacting with an LS, if necessary) and uses that location to acquire routing information for the emergency call from the RDF.'').

[88] T-Mobile NPRM Comments at 11 (stating that ''stakeholders should focus their efforts on supporting more robust means of text-based communication with PSAPs, including RTT''); Verizon NPRM Comments at 5 (''Verizon's planned LBR implementation for VoLTE will support real-time-text (RTT) 911 calls.''); NENA NPRM Reply at 9 (''The Commission's rules should apply to end-to-end RTT calls regardless of NG9–1–1 capability.''); ATIS NPRM Comments at 3 (urging the Commission ''to clarify that only providers of such next generation text solutions [as defined in ATIS and NENA standards] are required to use LBR''); *see also* CTIA NPRM Reply at 8.

[89] RTT transition obligations apply to ''those entities that are involved in the provision of IP-based wireless voice communication service, and only to the extent that their services are subject to existing TTY technology support requirements under Parts 6, 7, 14, 20, or 64 of the Commission's rules.'' *RTT Order,* 31 FCC Rcd at 13576–77, para. 12. The Commission requires CMRS providers transmitting over an IP network that choose to enable the transmission and receipt of communications via RTT, in lieu of TTY technology, to and from any PSAP served by their network, to enable such service in a manner that fully complies with all applicable 911 rules. *Id.* at 13591–92, para. 43. PSAPs require special capabilities to receive RTT communications from CMRS providers. *Id.* at 13592, para. 43. We recognize that many PSAPs are not currently capable of supporting RTT communications and remain reliant on TTY technology to receive calls from people with disabilities. Texas 9–1–1 Entities NPRM Comments at 5; *see RTT Order* at 13592, para. 43; FCC, What Public Safety Answering Points Should Know about Real-Time Text at 2 (Oct. 2, 2018), *https://www.fcc.gov/sites/default/files/documents/events/fact_sheet_about_real-time_text_for_public_safety_answering_points.pdf.*

[90] Verizon does comment on RTT specifically and distinguishes it from other 911 texting, with an indication that it may be easier for Verizon to implement RTT than SMS location-based routing. Verizon states that ''[w]hile Verizon's planned LBR implementation for VoLTE will support real-time-text (RTT) 911 calls, LBR for SMS is not feasible using our existing platforms and capabilities, and would require substantial network- and device-level changes and upgrades.'' Verizon NPRM Comments at 5.

[91] *See, e.g.,* iCERT NPRM Comments at 2 (supporting 18-month timeline for all covered text providers, ''without regard to service area''); NENA NPRM Comments at 1; AT&T NPRM Comments at 6 (supporting 18-month compliance timetable, but conditioned on PSAP request and readiness).

[92] Verizon NPRM Reply at 2; *see also, e.g.,* RWA NPRM Comments at 3 (indicating smaller providers need more time to comply than larger providers, and requesting small rural providers be given 36 months from the effective date of the rules to implement text-to-911, ''and then only if the PSAP is capable of handling the call routing''); Southern Linc NPRM Reply at 6–8 (stating that if Commission requires location-based routing for SMS-based texts to 911, nationwide CMRS providers should have at least 18–24 months from the effective date of the rules and non-nationwide CMRS providers should have an additional 12–18 months beyond that, in recognition of smaller carriers' ''additional challenges and resource constraints'' and that a CMRS provider's obligation to commence use should only be triggered by a valid request from the PSAP or other relevant authority).

[93] *See* Donny Jackson, *APCO speakers say RTT being used operationally, could be key platform for 911 in the future,* IWCE's Urgent Communications (Aug. 8, 2023), *https://urgentcomm.com/2023/08/08/apco-speakers-say-rtt-being-used-operationally-could-be-key-platform-for-911-in-the-future/* (Jackson, *APCO speakers*) (noting 911 officials stress the ''nascent operation of RTT for emergency calling, as only a handful of PSAPs are using the technology at the moment'').

non-nationwide CMRS providers.[94] In addition, given that RTT uses call processing similar to that used for voice calls, we anticipate that non-nationwide CMRS providers will be able to implement this capability on the same timeline as location-based routing for voice calls originating on IP-based networks. However, we encourage CMRS providers (nationwide or non-nationwide) to adopt location-based routing for RTT before the 24-month deadline if feasible.

60. Location-based routing for SMS. Some public safety commenters urge the Commission to require location-based routing for all texts to 911, including SMS, so that improved text routing is available to individuals who are deaf, hard of hearing, or have speech related disabilities, and to people in situations where the sound of a voice call would place them in peril.[95] We agree with public safety commenters that location-based routing could provide benefits to communities that rely on text messaging to contact 911. However, we decline to require location-based routing for SMS messages at this time because the record indicates that industry has not yet developed standards for implementing location-based routing on SMS networks and because of the potential cost of requiring covered text providers to retrofit legacy SMS networks.

61. In particular, commenters note that enabling location-based routing for SMS would require updates to the relevant technical standard, ATIS/TIA J–STD–110.[96] According to NENA, implementing standards-based SMS solutions would add at least two years for standards development, product development, and deployment. T-Mobile, Alaska Telecom, and Verizon also note that implementing location-based routing for SMS would require potentially costly retrofitting of legacy SMS networks. Verizon argues that enabling location-based routing for SMS ''would require substantial upgrades of Short Message Service Center (SMSC) and Text Control Center (TCC) facilities . . . and device changes to enable the device to override security, privacy and other functions to access the caller's device-level location information.'' In addition, Verizon argues that requiring location-based routing for SMS could impose duplicative cost and implementation burdens that would be unnecessary once a jurisdiction launches i3 NG911 capabilities. We also note that some PSAPs remain incapable of receiving texts and that the volume of 911 texts is far smaller than volume of wireless 911 voice calls.[97] In light of these factors, we find that it would not serve the public interest to require CMRS providers to retrofit legacy SMS networks.

62. We recognize that the three nationwide CMRS providers are using non-standardized location-based routing techniques to route some SMS texts to 911 today.[98] We encourage all CMRS providers to deploy location-based routing for SMS messages voluntarily to the extent that their resources permit, and we intend to monitor the development of standards, products, and other advances affecting location-based routing for SMS text-to-911. However, we agree with NENA that ''the Commission's rules should not back the market into adopting non-standardized technologies for a legacy platform that the industry is actively working to phase out.''

63. We decline to adopt commenters' alternative proposal to require CMRS providers to route SMS text messages using ''best available'' location information. Instead of a tiered system, in which CMRS providers would use precise location information within a radius of 165 meters at a 90% confidence level and otherwise default to best available location information, these commenters suggest a requirement to route SMS text messages based on best available location information (*i.e.,* there would be no requirement to use highly precise location information when it is available from the handset). Intrado argues that, unlike wireless 911 voice calls to 911, for SMS ''there is no fallback information available for text and no technologic way or need to implement LBR for text differently nor any means to apply a specific uncertainty/confidence requirement . . . .'' As with the proposed requirement to route text messages when available location information meets our accuracy and timeliness criteria, solutions that route using ''best available'' location information are still not standards-based. Therefore, we decline to require CMRS providers to implement non-standard location-based routing solutions for SMS text messages at this time. The Commission may reconsider if applicable standards are developed.

64. Under the Commission's existing text-to-911 rules, ''covered text providers must obtain location information sufficient to route text messages to the same PSAP to which a 911 voice call would be routed, unless the responsible local or state entity designates a different PSAP to receive 911 text messages . . . .'' [99] The implementation of location-based routing, which uses more precise location information than the tower-based routing method, may change the PSAP to which a 911 voice call would otherwise be routed. We do not interpret this provision to require covered text providers to obtain the same precise location information for SMS or other non-RTT text messages that would be used for a voice call subject to the Commission's location-based routing rules. Instead, this provision would continue to require covered text providers to obtain location information sufficient to route text messages (other than RTT) to the same PSAP to which a wireless 911 voice call would be routed using coarse location or other equivalent means, the routing technology in use at the time of adoption of this rule.[100]

65. Location-based routing for other text-messaging platforms. We decline to consider location-based routing for other types of text-messaging platforms, such as Multimedia Messaging Service

[94] *See* 47 CFR 9.10(q)(1), (10).

[95] COPUC NPRM Comments at 8; BRETSA NPRM Reply at 8; NASNA NPRM Comments at 13. DISA also argues that location-based routing for text-to-911 could also decrease the response time for 911 texts originating outside the three-mile line off U.S. and Territorial shores. DISA NPRM Comments at 1.

[96] Verizon NPRM Comments at 5; Southern Linc NPRM Reply at 7; NENA NPRM Reply at 9, n.41; ATIS NPRM Comments at 3. ATIS/TIA J-STD-110.v002 defines the requirements, architecture, and procedures for text messaging to 911 emergency services using native wireless operator SMS capabilities for the existing and NG911 PSAPs. ATIS and Telecommunications Industry Association (TIA), *Joint ATIS/TIA Native SMS/MMS Text to 9–1–1 Requirements and Architecture Specification—Release 2* at sections 7, 8, and 9 (May 2015), *https://webstore.ansi.org/standards/atis/std110* (*ATIS/TIA J–STD–110.v002*). In 2014, the Commission explained that ''The scope of the J–STD–110 is limited to text messaging to 9–1–1 for native SMS capabilities, and it does not address support of text-to-911 for interconnected text services using 'over-the-top' SMS.'' *T911 Second Report and Order,* 29 FCC Rcd at 9864, para. 39 n.106 (citing to a previous version of ATIS/TIA J–STD–110, Section 1.1).

[97] As of December 2023, the Commission's Text-to-911 Registry lists 3,201 PSAPs as text-capable. *See* FCC, PSAP Text-to-911 Readiness and Certification Registry, *https://www.fcc.gov/general/psap-text-911-readiness-and-certification-form.* In calendar year 2022, U.S. PSAPs received a combined total of 824,609 texts to 911 in comparison to 157,999,298 wireless 911 voice calls. Fifteenth Annual 911 Fee Report at 13–16, Table 3.

[98] *See* AT&T PN Comments at 5 (describing AT&T's location-based routing for text-to-911 implementation); T-Mobile July 26, 2023 *Ex Parte* at 3; Verizon Dec. 7, 2023 *Ex Parte* at 1. NENA also states ''There are non-standards-based mechanisms for supporting location-based routing for interim text 156 which are available and in-use in the market today.'' NENA NPRM Reply at 9.

[99] 47 CFR 9.10(q)(10)(i).

[100] *T911 Second Report and Order,* 29 FCC Rcd at 9874, para. 57 (''We require covered text providers to route texts to 911 using coarse location (cell ID and cell sector) or other equivalent means that allows the covered text provider to route a text to the appropriate PSAP.'').

(MMS) platforms, at this time. To the extent that commenters discussed other text messaging platforms, such comments combined arguments regarding SMS and MMS platforms.[101] As discussed herein, MMS platforms rely on many of the same functional network elements that would be used to process SMS messages. We therefore decline to consider requirements for location-based routing for MMS for the same reasons discussed in this section for SMS text. We also decline consideration of location-based routing for over-the-top (OTT) platforms, as no commenter discussed OTT platforms.

3. Definitions

66. In the notice of proposed rulemaking, the Commission proposed to define ''location-based routing'' as routing based on the location of the calling device rather than the location of network elements such as cell site or sector. The Commission also proposed a definition of ''device-based location information'' and sought comment on whether the definition adequately encompasses current and future location technologies. We adopt these definitions as proposed and find that they will add clarity to the rules while remaining flexible and allowing for the future evolution of new technologies. We defer consideration of the proposed definitions of other terms relating to IP delivery for NG911 networks to the separate NG911 transition proceeding in PS Docket No. 21–479.[102]

67. Location-Based Routing. The notice of proposed rulemaking proposed to define ''location-based routing'' as the use of information on the location of a device, including but not limited to device-based location information, to deliver 911 calls and texts to point(s) designated by the authorized local or state entity to receive wireless 911 calls and texts, such as an Emergency Services internet Protocol Network (ESInet) or PSAP, or to an appropriate local emergency authority. Most commenters addressing the issue, including NASNA, NENA, COPUC, and Alaska Telecom, support the proposed definition.[103] Alaska Telecom states that the proposed definition is flexible and ''will give carriers, 911 vendors, and public safety entities the ability to invest time and resources into new and improved location technologies.''

68. APCO and AT&T suggest that the definition avoid reference to ''device-based location information'' or to ESInets. APCO states that it does not disagree with the assumption that ESInets may be a potential delivery point for 911 calls, but contends that ''a simpler approach that does not reference ESInets could avoid unintentional limitations.'' [104] AT&T argues that identifying ESInets as end points that state or local 911 authorities can designate is outside the scope of the proceeding and unnecessary.[105] NENA and Alaska Telecom oppose narrowing the definition, and DISA and COPUC support including ESInets as an illustrative example. Alaska Telecom states that ''[t]he Commission's proposed definition allows for technological development and improvement over time, in contrast to the changes suggested by APCO'' to define ''location-based routing'' by reference to uncertainty and confidence metrics.

69. We adopt the proposed definition in order to provide guidance to regulated entities on how to comply with our location-based routing rules. This definition of location-based routing does not extend to tower-based routing methodologies. We disagree with APCO that referring to ESInets in the rules as an illustrative example could unintentionally limit the location-based routing definition. APCO objects to referencing ESInets in the definition because ''ESInets may or may not be capable of performing location-based routing.'' However, the term is used in the definition merely to identify ESInets as a potential delivery point for 911 voice calls and RTT communications, without any reference to the technical capabilities of ESInets. Including ESInets as an illustrative example clarifies that providers can use location-based routing to deliver 911 calls to ESInets, without precluding or limiting use of other network architectures and end points. We similarly disagree with the view that use of the term ''device-based location information'' in the definition is too limiting. Again, the term is included as an illustrative example rather than a technological restriction. Thus, location technologies that do not use device-based location information may also fall within the scope of the location-based routing definition.

70. Device-Based Location Information. The notice of proposed rulemaking proposed to define ''device-based location information'' as ''[i]nformation regarding the location of a device used to call or text 911 generated all or in part from on-device sensors and data sources.'' The Commission noted that this term is used in the existing rule on delivery of 911 text messages and that the proposed definition would also apply to that rule. We conclude that this definition of ''device-based location information'' provides useful guidance to regulated entities for compliance with the location-based routing rules, while remaining flexible enough to account for future technological development. COPUC supports the definition proposed in the notice of proposed rulemaking. Several other commenters urge the Commission to ensure that the definition is flexible enough to encompass current and future technologies.[106] We find that the definition is sufficiently broad and flexible to meet this goal.

71. We also decline to adopt several suggestions from the record to modify the definition of ''device-based location information.'' AT&T supports ''a definition of 'device-based location information' that is tied to timeliness and accuracy metrics . . . .'' However, the ''device-based location information'' definition is intended to describe a mechanism for deriving location

[101] *See, e.g.*, GCI July 17, 2023 *Ex Parte* at 1 (''LBR for SMS/MMS text-to-911 would be much more difficult than for IP-originated wireless calls . . . .''); NENA NPRM Reply at 8 (discussing that ''interim text uses SMS/MMS for emergency text calls''); Intrado NPRM Comments at 4 (discussing ''SMS/MMS design'').

[102] *NG911 Notice of Proposed Rulemaking* at *20, para. 51. For example, commenters discussed definitions for the terms ''NG911,'' '' 'IP-based' 911,'' and ''NG911-capable PSAPs,'' which we believe would be better addressed in the NG911 proceeding so as to apply to a wider array of 911 originating service providers. *See* APCO NPRM Comments at 5; CTIA NPRM Comments at 8; Southern Linc NPRM Reply at 8–9; NENA NPRM Reply at 4–5, 7–8.

[103] NASNA NPRM Comments at 14; COPUC NPRM Comments at 8; Alaska Telecom NPRM Reply at 4 (noting also that Alaska Telecom ''believes that it is important that 'location' be limited to the autonomous location derived by the device, with accuracy based on what is coming from the device, not information derived by the carrier network'').

[104] APCO NPRM Comments at 4. APCO does not specifically identify what such ''unintentional limitations'' are, but cites to its discussion of ''the current state of ESInet capabilities.'' APCO NPRM Comments at 4, n.20. APCO asserts that ''ESInets may or may not be capable of performing location-based routing after receiving the call from a wireless service provider. Thus, the NPRM's consideration of 'NG9–1–1 capabilities' and ESInets as factors for the location-based routing requirements raises concerns. The Commission can and should adopt location-based routing requirements without considering 'NG9–1–1' progress or ESInet deployment.'' *Id.* at 6.

[105] AT&T NPRM Comments at 8. However, AT&T also states that ''individual states and PSAP authorities can designate ESInets as an endpoint for the delivery of 911 calls[,]'' and ''encourages the Commission . . . to confirm that states and local jurisdictions have this authority.'' *Id.*

[106] AT&T NPRM Comments at 3–4 (citing Commission's wording in the notice of proposed rulemaking); *see also* Alaska Telecom NPRM Reply at 4 (supporting Commission's proposed definition as allowing for technological development and improvement over time); NENA NPRM Reply at 4 (citing AT&T NPRM Comments at 3–4).

information rather than determining the timeliness or accuracy of the information. In addition, we separately set forth timeliness and accuracy metrics elsewhere in the rules. DISA suggests adding language to indicate that the location is to be determined ''at origination (setup) of [a] voice call.'' We decline to adopt this suggested change, as the issue of timeliness of the location information used for location-based routing is addressed in other rules we adopt.

4. Timeliness and Accuracy of Location-Based Routing Information

72. We require CMRS providers to use location-based routing for wireless 911 voice calls and RTT communications to 911 when the location information available to the CMRS provider's network at time of routing is ascertainable within a radius of 165 meters at a confidence level of at least 90%. We anticipate that a substantial percentage of wireless 911 voice calls and RTT communications to 911 will route on location information meeting the accuracy and timeliness threshold under the rules adopted. If location information meeting this threshold is not available at the time of routing, we require CMRS providers to use the ''best available'' location information for routing wireless 911 voice calls and RTT communications to 911. Such ''best available'' location information may include but is not limited to device-based location information that does not meet the accuracy threshold, tower-based location information (*e.g.,* the centroid of the area served by the cell sector that first picks up the call), or other location information. The requirements we adopt are those proposed in the notice of proposed rulemaking with slight definitional modifications.

a. Timeliness Threshold

73. As noted in the notice of proposed rulemaking, location-based routing requires information about the caller's location to be available quickly enough to enable the call to be routed without delaying the normal call set-up process. We adopt the Commission's proposal from the notice of proposed rulemaking to require the use of location-based routing only if caller location information is available to the CMRS provider network at the time that the CMRS provider would otherwise route the call.[107] This timeliness threshold is intended to avoid delay in transmitting wireless 911 voice calls and RTT communications to PSAPs.

74. The record indicates that currently available technology is routinely capable of delivering location information to CMRS provider networks for wireless 911 voice calls and RTT communications to 911 in time for routing without delay.[108] Nationwide CMRS providers' implementations have demonstrated that obtaining such location in time for routing is feasible. Devices that are capable of producing high accuracy, low latency location for emergency calling are in wide use, and IP network technology supports rapidly obtaining such precise location estimates. The location-based routing deployments of AT&T,[109] T-Mobile,[110] and Verizon [111] demonstrate that precise location information can be made routinely available to CMRS providers' networks in time for routing wireless 911 voice calls. Both Android devices using ELS and iOS devices using HELO are capable of generating high accuracy, low latency location information in time to support 911 call routing.[112] Moreover, iOS and Android devices account for 99.62% of the U.S. device market, meaning that this capability is widely available to consumers. Intrado states that 4G LTE and newer networks can obtain device-based location information, calculate confidence and uncertainty, and query the location server for PSAP routing instructions within the normal call set-up interval. T-Mobile states that the ''IP Multimedia Subsystem ('IMS') technology and advancement of device-based hybrid location solutions has enabled the use of a caller's estimated device location for call routing without delaying call set-up.''

75. Some commenters suggest that the Commission should require CMRS providers to route 911 calls within five seconds to ''prevent a CMRS provider from holding onto a call for eight to ten seconds or even longer waiting for a location fix.'' [113] We decline to adopt this requirement because doing so could incentivize CMRS providers to hold wireless 911 voice calls and RTT communications to 911 for the full five seconds when location information does not meet the threshold for accuracy, which could result in delays for wireless 911 voice calls and RTT communications to 911. The requirement that location information be available at time of routing, as the Commission stated in the notice of proposed rulemaking, ''is intended to avoid delay in transmitting 911 calls and texts because there would be no requirement to hold calls and texts for purposes of obtaining a routing fix.'' Intrado points out that deploying location-based routing under the Commission's proposed framework ''renders moot the potential need for call holding.'' We agree that the framework as adopted avoids

[107] For CMRS providers, ''all 911 calls'' include ''those [911 calls CMRS providers] are required to transmit pursuant to subpart C of this part [9].'' 47 CFR 9.3. This definition therefore extends to texts, which are subject to 47 CFR 9.10(q), a provision which resides in subpart C of part 9 of the Commission's rules. In this document, we distinguish between 911 wireless voice calls, 911 texts, and RTT communications for the sake of precision. However, we preserve the language from the notice of proposed rulemaking for the purposes of this paragraph.

[108] *See* Notice of Proposed Rulemaking, 37 FCC Rcd at 15199, para. 38 (citing Intrado PN Comments at 6, 8; Apple Sept. 24, 2019 *Ex Parte* at 2; and Android, *Emergency Location Service—How It Works, https://www.android.com/safety/emergency-help/emergency-location-service/how-it-works/* (last visited Jan. 17, 2024)); Verizon NPRM Comments at 6 (stating that RTT ''will also benefit from the same routing improvements and advantages as i3 voice calls''); NENA NPRM Comments at 12 (stating that an RTT communication in NG911 ''requires no special handling compared [to] a 'conventional' voice call'').

[109] AT&T has used location-based routing for over 80% of all AT&T wireless calls. Intrado PN Comments at 2. Intrado further notes that AT&T's location-based routing solution provides location-based routing ''without any impact to the timeline or call.'' Intrado PN Comments at 6.

[110] T-Mobile indicates that more than 95% of location estimates available at call routing on T-Mobile's network fall within the company's threshold, *i.e.,* ''300 meters with a confidence level of 90%.'' T-Mobile July 26, 2023 *Ex Parte* at 1.

[111] *See* Verizon July 13, 2023 *Ex Parte* at 1 (''To determine whether device-based hybrid location information provided by the device during a call is adequate for routing, Verizon uses an accuracy threshold of 200 meters maximum horizontal uncertainty with confidence of 90 percent.'').

[112] Notice of Proposed Rulemaking, 37 FCC Rcd at 15191, para. 16. *See also* Android, Emergency Location Service—How It Works, *https://www.android.com/safety/emergency-help/emergency-location-service/how-it-works/* (last visited Jan. 17, 2024) (''On average, ELS is able to get a first location 3–4 seconds after the call has started.''); Android, Emergency Location Service—Overview, *https://www.android.com/safety/emergency-help/emergency-location-service/* (last visited Jan. 17, 2024) (''ELS works on over 99% of active Android devices running OS4.4 and up, with Google Play Services installed-no new hardware or activation required.''); Apple Sept. 24, 2019 *Ex Parte* at 2 (indicating that device-based hybrid location is available from certain devices during call set-up and that location-based routing can be enabled on models 6s and later running iOS 13 and Apple Watch devices running watch OS 6).

[113] NASNA NPRM Comments at 14; see also COPUC NPRM Comments at 6–7; iCERT NPRM Comments at 3 (''[W]e support the FCC's proposal to require use of LBR when the wireless network provider can determine the location of the caller within the recommended five-second window. If the caller's location is not available within this timeframe, the provider should use traditional cell site-based methods.''); see also BRETSA NPRM Reply at 14–15 (arguing that minimum hold times might increase the percentage of calls that can be routed on device-based hybrid location information where providers still operate 3G networks, or that 911 authorities may wish to participate in tests to determine whether holding calls would allow for additional calls on IP-based networks to be routed using location-based routing).

introducing new delays for wireless 911 voice calls and RTT communications to 911. Conversely, if we were to set a maximum five-second time frame for routing, it could incentivize CMRS providers to hold calls and RTT communications at the network for the full five-second window to ensure routing based on ''best available'' location. This in turn could create delays in connecting callers to a PSAP and cause some callers to terminate their 911 calls. To avoid such adverse impacts, we decline to set a maximum time frame for routing wireless 911 voice calls or RTT communications to 911.

76. We also decline to specify, as suggested by DISA, that the location information used for routing be determined ''at origination (setup) of [a] voice call.'' While we expect that location for most calls will be determined at origination, DISA's proposal could inadvertently be too restrictive, if location were to arrive after the setup of a voice call but before routing. We believe it is sufficient to require only that location information be available at the time of call routing, regardless of when the location is determined.

77. NGA 911 asserts that a timeliness requirement ''appears to leave a big gap in the implementation because a carrier may always be able to claim the information was not available at time of call routing.'' The record indicates, however, that CMRS providers are already deploying technology that routinely provides the required location information at the time of call routing with no delay. For example, Intrado states that in AT&T's network, location information meeting the threshold is available in time to route wireless 911 voice calls 80% of the time, and that routing on the network ''requires no call delay.'' We intend to monitor the deployment and use of location-based routing on CMRS provider networks with reporting requirements discussed herein. Should we learn that some CMRS providers are not taking full advantage of available technology that provides location-based routing information at the time of the call, we will consider whether additional measures are needed.

b. Accuracy Threshold

78. Turning to the required accuracy threshold for location-based routing, we adopt the requirement that CMRS providers use location-based routing to route wireless 911 voice calls and RTT communications to 911 if the location information available at the time of routing identifies the horizontal location of the device within a radius of 165 meters at a confidence level of at least 90%. This requirement is consistent with the requirement the Commission proposed in the notice of proposed rulemaking.

79. We adopt the 165-meter threshold with a confidence level of at least 90% in light of the demonstrated efficacy of location-based routing using such a threshold and because this threshold provides enough flexibility to be compatible with nationwide CMRS providers' existing implementations of location-based routing. We believe that this location accuracy threshold will substantially reduce the number of misroutes associated with legacy E911 routing. AT&T has applied a location accuracy threshold with a radius of 165 meters at a confidence level of 90% in its own network. Intrado states that location information meeting this location accuracy threshold is available to AT&T's network to route calls 80% of the time, and most calls route on information that identifies the location of the device within 50 meters. As a result, AT&T's solution ''provid[es] a more optimal route than sector-based routing for approximately 10% of all wireless 911 calls'' and ''[t]herefore, 10% of calls will be getting to the correct PSAP on the first try and will not require transfers from the neighboring PSAP.''

80. We agree with public safety entities and Intrado that it is imperative that we set an accuracy threshold that is realistic in light of existing technology while also providing room for future technological improvement.[114] APCO supports the proposed location accuracy threshold but remains open to an alternative that ''strikes an appropriate balance between how often the device's location will be known quickly and accurately enough to use location-based routing rather than cell-sector based routing, and how effective the use of location-based routing will be at delivering the call to the correct ECC [emergency communications center].'' AT&T supports a location accuracy threshold ''that the Commission believes would represent a significant improvement over cell-based routing methodologies.''

81. Some wireless industry commenters oppose the proposed location accuracy threshold and claim that additional flexibility is needed for providers to set individualized thresholds.[115] Verizon argues that a rigid location accuracy threshold is unnecessary to meet the Commission's public safety objectives and that any particular location accuracy threshold should at most serve as a safe harbor. ATIS asserts that providers should ''strive'' but not be mandated to produce location information for purposes of routing within a radius of 300 meters or less at a confidence level of 90%.[116] ATIS also asserts that it is developing best practices for carriers to implement location-based routing, and T-Mobile states that the Commission should wait for these best practices before requiring specific distance and confidence metrics for location-based routing.[117] We encourage ATIS to conclude any such efforts on a timeline that is consistent with the requirements adopted.

82. We conclude that a mandatory threshold is necessary. The accuracy threshold we set ensures that all CMRS providers will use location-based routing nationwide for 911 calls and RTT communications to 911 when location information at the time of routing meets a high accuracy standard. We also disagree that there is a need to wait for the development of best practices, as the location-based routing rules we adopt require CMRS providers to use this methodology when the location information available to the network is highly accurate, and further permit CMRS providers to use location-based routing methodologies in additional scenarios. We observe that the nationwide CMRS providers have all completed or are currently implementing location-based routing on their IP-based networks, and all use location-based routing to route wireless 911 voice calls when available location meets this mandatory threshold for

[114] APCO NPRM Comments at 2; Adams County et al. NPRM Comments at 3 (''The proposed confidence levels are acceptable, but ideally, over time, the radiuses and confidence levels in the proposed rule should be tightened so that 911 calls are routed more precisely.''); BRETSA NPRM Comments at 8 (''Intrado has found that LBR from hybrid device location information will allow accurate routing of wireless 9–1–1 calls over *80 percent* of the time using thresholds of 165 meters and a 90 percent confidence level. *The Commission should require national and regional wireless providers [to] implement LBR at the earliest possible time.*'' (Footnote omitted, citing Intrado PN Comments at 9)); Intrado NPRM Comments at 5.

[115] CTIA NPRM Comments at 5; T-Mobile NPRM Comments at 10; Verizon NPRM Comments at 3; ATIS NPRM Comments at 3–4; *see also* Southern Linc NPRM Reply at 5–6 (agreeing with ATIS, T-Mobile, Verizon, and CTIA that it is premature to adopt specific metrics).

[116] ATIS NPRM Comments at 4. We note that a location accuracy threshold with a radius of 300 meters would also be an acceptable location-based routing implementation under the rules we adopt.

[117] T-Mobile July 26, 2023 *Ex Parte* at 2; T-Mobile NPRM Reply at 3–4; T-Mobile NPRM Comments at 9; *see also* ATIS NPRM Comments at 4 (''[T]he Commission should defer to the recommendations regarding the feasibility of location accuracy from industry groups such as ATIS ESIF.'').

precision.[118] While no best practices have currently been developed, CMRS providers' implementations indicate a practical consensus that location-based routing can consistently be used when location information meets this threshold. We therefore decline to condition compliance with these rules on the completion of best practices by ATIS. We encourage ATIS to develop best practices to promote optimal routing on CMRS providers' networks.

83. While we require CMRS providers to use location-based routing when available location information is within a 165-meter radius at a standardized 90% confidence level, we emphasize that CMRS providers may also use location-based routing when location information available at time of routing is less precise than the accuracy threshold we adopt. To this extent, we agree with Verizon that CMRS providers should have flexibility to identify ''provider-optimized threshold range[s] to accommodate individual service providers' vendor capabilities and user device capabilities.'' We therefore provide flexibility to providers to set their own thresholds for use of location-based routing at a radius exceeding 165 meters at a 90% confidence level. While AT&T uses the 165-meter accuracy threshold, Verizon and T-Mobile have implemented accuracy thresholds of 200 meters and 300 meters, respectively, with a standardized 90% confidence level.[119] This formulation provides flexibility for all three nationwide CMRS providers to continue applying their respective thresholds for determining when to use location-based routing for 911 calls and RTT communications to 911.

84. We confirm that the location accuracy threshold used for location-based routing of a radius of 165 meters at a confidence level of at least 90% would apply equally to both estimated civic address and coordinate-based location. We agree with NENA that a CMRS provider may have access to an estimated civic address for a calling device that may be used for location-based routing.[120] Many fixed broadband internet access devices, particularly those provided to the consumer by the broadband service provider, are permanently located at a civic (street) address, which is known to the network provider.[121] If a CMRS provider has access to either an estimated civic address or coordinate-based location that represents a horizontal location uncertainty level of the device within a radius of 165 meters at a confidence level of at least 90% and that location is available at time of routing, the CMRS provider must use such information to comply with the Commission's location-based routing rules.

c. Default to Best Available Location Information

85. In the notice of proposed rulemaking, the Commission proposed that when location information does not meet one or both thresholds for accuracy and timeliness under our rules, CMRS and covered text providers would be required to route wireless 911 voice calls and texts to 911 based on the best location information available at the time the call is routed, which may include cell tower coordinates. We adopt this requirement as proposed for CMRS providers' routing of wireless 911 voice calls and RTT communications to 911. We find that this approach allows flexibility for CMRS providers to determine the best available location information for routing when the available location information does not meet the thresholds for timeliness and accuracy.

86. Commenters generally support a flexible fallback approach to routing of calls and texts that do not meet the timeliness and accuracy thresholds for location-based routing.[122] As the Commission stated in the notice of proposed rulemaking, a requirement to default to best available location information is consistent with ATIS–0500039, which assumes that ''the fallback for location-based routing should be cell sector routing 'for cases wherein no position estimate is available in time to be used for [location-based routing] or the position estimates lack requisite accuracy.' '' This approach is also consistent with current CMRS provider deployments of location-based routing, which default to legacy E911 routing when location does not meet carriers' individually-set thresholds for accuracy and timely availability. For scenarios in which available location information does not meet the accuracy or timeliness thresholds, we believe that the CMRS provider is best suited to make the determination of the location information that is most likely to support accurate call routing. Defaulting to best available location information when preferred location is unavailable is consistent with other Commission rules regarding the provision of location information with 911 calls. In these rules, the Commission requires providers to supply highly precise location information when technically feasible but permits reliance on alternative location information when highly precise location information is not available.[123]

87. Some commenters argue that CMRS providers should be required to use tower-based routing when the device-based location information available to the network at the time of routing exceeds the threshold,[124] or that the Commission should limit tower-based routing to scenarios in which ''no other option exists.'' We agree with CTIA and iCERT that location information that is less accurate than the proposed accuracy threshold but more accurate than cell sector, for example, device-based location information that arrives at the network in time for routing but exceeds the 165-meter threshold, could still enhance the

[118] Verizon and T-Mobile also use location-based routing for less precise location estimates.

[119] Intrado notes that AT&T's threshold is 165 meters at a 90% confidence level. Intrado PN Comments at 9. T-Mobile indicates that its threshold is 300 meters at a 90% confidence level. T-Mobile July 26, 2023 *Ex Parte* at 1. Verizon indicates that its threshold is 200 meters at a 90% confidence level. Verizon July 13, 2023 *Ex Parte* at 1.

[120] NENA NPRM Comments at 3 (arguing that ''location-based routing rules should apply equally to geodetic and civic locations known to the originating service provider'').

[121] *Amending the Definition of Interconnected VoIP Service in Section 9.3 of the Commission's Rules; Wireless E911 Location Accuracy Requirements; E911 Requirements for IP-Enabled Service Providers,* GN Docket No. 11–117, PS Docket No. 07–114, WC Docket No. 05–196, Third Report and Order (76 FR 59916, September 28, 2011) and Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking (76 FR 47114, August 4, 2011), 26 FCC Rcd 10074, 10105, para. 92 (2011). Examples of scenarios in which the CMRS provider would have an estimated civic address include a caller connecting to the network using a Wi-Fi access point or femtocell. *See id.*

[122] Southern Linc NPRM Reply at 6 (stating that to the extent available location information does not meet the requirements for timeliness or location accuracy for a particular 911 call, CMRS providers are in the best position to determine what kind of location information constitutes the ''best available''); CTIA NPRM Comments at 4–5; Verizon NPRM Comments at 4 (''Verizon agrees that network-based routing will remain necessary as a fallback when available location information does not meet the relevant accuracy and confidence/uncertainty threshold. This approach serves 911 callers' needs as a large majority of calls using network-based routing will be as reliable as LBR.''); DISA NPRM Comments at 2.

[123] *See, e.g.,* 47 CFR 9.16(b)(3)(ii) (stating that ''an on-premises non-fixed device associated with a multi-line telephone system shall provide to the appropriate PSAP automated dispatchable location, when technically feasible; otherwise, it shall provide dispatchable location based on end user manual update, or alternative location as defined in § 9.3'').

[124] Intrado NPRM Comments at 5 (''Intrado recommends that when the location information does not meet these timing/accuracy specifications, the proposed rules require fallback to tower-based routing rather than best available location information consistent with current CMRS deployments of LBR and industry standards.''); NASNA NPRM Comments at 12; COPUC NPRM Comments at 6.

likelihood of routing the call to the appropriate PSAP, and the rules we adopt allow the use of such information for routing if it is the best available.

88. We make minor modifications to the rule to clarify that the ''best available location information'' to the network at time of routing may take several forms. In the notice of proposed rulemaking, the proposed rule stated that best available location information ''*may* include the latitude/longitude of the cell tower.'' We emphasize that the Commission used the latitude/longitude of the cell tower only as an illustrative example and that this language was not intended to limit CMRS providers to only using cell tower coordinates as a default or fallback. Southern Linc states that the most effective way to minimize misroutes is to enable CMRS providers to route calls based on the best location information available at the time of the call, regardless of the technology or solution. We agree. NENA states that the most appropriate geodetic location for each sector would be the centroid of the area served by each cell sector, instead of the coordinates of the cell tower. We revise the proposed rule language to indicate that when information of a device's location does not meet either one or both requirements for timeliness and accuracy, CMRS providers must route the wireless 911 voice calls or RTT communications to 911 based on the best available location information, which may include, but is not limited to, device-based location information that does not meet the timeliness and accuracy requirements, the centroid of the cell sector that first picks up the call, or other location information.

d. Validation

89. In the notice of proposed rulemaking, the Commission sought comment on whether to require validation of location information for wireless 911 voice calls and texts to 911 for purposes of location-based routing and, if so, what validation steps CMRS and covered text providers should be required to take. Some commenters support validation, citing concerns that 911 calls can be spoofed or purposefully misrouted for swatting incidents. However, AT&T states that in its experience, invalid location under location-based routing is ''extremely rare.'' BRETSA contends that requiring validation would be counterproductive because ''[v]alidating caller/device locations against cell-site (Phase I) location would appear to defeat the purpose of device-based LBR.'' [125]

90. We decline to implement a validation requirement for the location information used by CMRS providers for routing at this time, as validation protocols are still evolving.[126] We will continue to monitor location information validation and will consider validation requirements for CMRS providers if such requirements become necessary. To aid in this monitoring, in the certification and reporting requirements discussed herein, we adopt requirements for CMRS to collect and report information on validation procedures they use with location-based routing.

B. Delivery of Wireless 911 Calls and Texts to NG911 Networks

91. In the notice of proposed rulemaking, the Commission proposed requiring CMRS and covered text providers to deliver 911 calls, texts, and associated routing information in IP format upon request of 911 authorities who have established the capability to accept NG911-compatible IP-based 911 communications. In the subsequent NG911 Notice of Proposed Rulemaking, the Commission proposed similar requirements for wireline, interconnected VoIP, and internet-based TRS providers. Several commenters express support for addressing IP delivery requirements for CMRS and covered text providers as part of a consolidated NG911 proceeding.[127]

92. We agree that consolidating similar issues and aligning requirements for NG911 services across different types of originating service providers will result in more consistent rules and avoid confusion among stakeholders. Accordingly, we defer consideration of IP delivery for CMRS and covered text providers, including all associated proposals and issues raised in the notice of proposed rulemaking, to the NG911 transition proceeding, PS Docket No. 21–479. We acknowledge the comments in the record of this proceeding regarding the Commission's proposals on this issue, and we will address those comments in the NG911 proceeding.[128]

C. Certification and Reporting Requirements

93. Certification and Reporting Requirements. In the notice of proposed rulemaking, the Commission sought comment on whether it should implement any new data collections to assist in monitoring compliance with the proposed location-based routing rules. The Commission also sought comment on what information providers should include and how frequently they should be required to report. In addition, the Commission asked whether it should require providers to certify that they are in compliance with requirements for location-based routing.

94. NASNA and COPUC support an information collection to assess compliance and implementation of location-based routing. To help the Commission monitor compliance with the location-based routing requirements we adopt, we adopt certain one-time certification and reporting requirements. Specifically, we require that within sixty days after CMRS providers' respective compliance deadlines, they must certify that they are in compliance with the location-based routing requirements applicable to them. As part of the certification, CMRS providers must substantiate compliance by identifying specific network architecture, systems, location validation,[129] and procedures used to comply with the location-based routing requirements. We also require CMRS providers on a one-time basis to collect and report aggregate data on the routing technologies used for live 911 calls in

[125] BRETSA NPRM Reply at 10. BRETSA states that ''[r]eference to the tower location for verification would simply invalidate the caller location in those cases in which the caller is located in a jurisdiction other than that in which the PSAP to which 9–1–1 calls received by the cell site are default routed. It would result in the very misrouting of the call LBR is being implemented to correct.'' *Id.* at 11.

[126] Most commenters who address the issue oppose a validation requirement. *See, e.g.,* AT&T NPRM Comments at 4–5; T-Mobile NPRM Comments at 10; T-Mobile NPRM Reply at 4; Verizon NPRM Comments at 4; Verizon NPRM Reply at 2; ATIS NPRM Comments at 4–5; BRETSA NPRM Reply at i, 10–11.

[127] CTIA July 3, 2023 *Ex Parte* at 2; Intrado NPRM Comments at 2, 5–6; Texas 9–1–1 Entities NPRM Comments at 5–6 n.21; NENA NPRM Reply at 5 (''NENA supports Intrado's request to initiate an NG9–1–1 proceeding to refresh the record on NG9–1–1.''); Verizon NPRM Reply at 5 (''[C]oupling LBR with a framework for i3-based NG911 implementation would promote more efficient deployment by minimizing redundant implementation of interim and i3 NG911-based LBR while also rewarding wireless providers that have diligently worked to support end-to-end i3-based NG911.''); *see also* GCI July 17, 2023 *Ex Parte* at 1 (''[A]ddressing any new requirements for IP delivery of wireless calls to PSAPs as part of the FCC's larger NG911 proceeding will facilitate consistent rules across network types and will make compliance with any new rules more efficient and effective for all service providers.''); Alaska Telecom Association NPRM Comments at 8–9 (rec. Aug. 9, 2023) (filed in both PS Dockets 21–497 and 18–64) (''[T]he FCC should address and align any new requirements for IP delivery of wireless calls to PSAPs proposed in the LBR proceeding (PS Docket No. 18–64) with any IP-delivery requirements adopted in this NG911 proceeding.'').

[128] Commenters who filed comments on this issue in the docket for this proceeding (PS Docket No. 18–64) do not need to re-file their comments in PS Docket No. 21–479.

[129] As we discuss herein, we do not require validation of location information used for location-based routing. However, if providers perform any validation of routing location data, they should identify such practices as part of their certification.

the locations specified for live 911 call location data in § 9.10(i)(3)(ii) of the Commission's rules. CMRS providers must collect these data for a thirty-day period beginning on the applicable compliance date.

95. CTIA requests that we establish a ''presumption of confidentiality from disclosure of detailed network information'' that is required to be included in the certifications outlined in the Report and Order. In support of its request, CTIA states that ''wireless providers customarily treat network information as confidential for competitive and security reasons'' and cites to a proceeding in which the Commission concluded that outage reports should be routinely treated as confidential information and are presumptively protected from public disclosure under the Freedom of Information Act. Based on the current state of the record, we decline to establish a presumption of confidentiality for the one-time certification and reporting requirements adopted in the Report and Order. CMRS providers may request confidential treatment under the Commission's existing confidentiality rules [130] for materials submitted pursuant to these new requirements, specifying the information they wish to keep confidential and providing the required justification. We note that the Commission retains the right to release aggregated or anonymized data that would not reveal specific information for which confidential treatment has been sought, including doing so on its website, in order to facilitate transparency and compliance with the rules. In addition, nothing in this document or the Report and Order is intended to limit the authority of state and local 911 agencies to publish 911 call data to the extent authorized under state or local law.

96. CTIA requests that the Commission permit providers to submit certifications in the public docket ''while separately allowing providers to submit the required network information and live call data directly to Commission staff.'' We direct the Public Safety and Homeland Security Bureau to issue a Public Notice prior to the deadline for nationwide CMRS providers to file compliance certifications and live call data. Such a Public Notice will include necessary instructions for CMRS providers to file certifications and reports in compliance with the requirements adopted.

97. CMRS providers must file the required certifications and live call data within 60 days after the compliance deadlines applicable to them under the location-based routing rules. This means that for voice calls to 911, a nationwide CMRS provider must file its certification and live call data within 60 days after the six-month deadline for deploying location-based routing technology on its IP-based networks, and a non-nationwide CMRS provider must file its certification and live call within 60 days after the 24-month deadline for deploying location-based routing technology on its IP-based networks. In addition, all CMRS providers that have implemented the capability for RTT communications to 911 must file a certification within 60 days after the 24-month deadline for deploying a technology that supports location-based routing for RTT communications. We do not require live call data reporting for RTT communications to 911.

98. Under the one-time reporting requirement for live 911 calls, CMRS providers must collect and report on (1) the number and percentage of wireless 911 voice calls routed with device-based location information that meets the accuracy threshold we adopt (*i.e.,* within a radius of 165 meters or less at a confidence level of at least 90%); (2) the number and percentage of wireless 911 voice calls routed with device-based location information that exceeds that threshold (*i.e.,* within a radius larger than 165 meters at a confidence level of 90%); and (3) the number and percentage of wireless 911 voice calls routed by tower-based routing. We believe that this information will help us evaluate each CMRS provider's deployment of location-based routing. We also encourage but do not require CMRS providers to include the number of device-based location results being discarded as invalid in their reports filed with the FCC. To minimize the reporting burden on CMRS providers, we require them to collect and report on 911 routing methods for live 911 voice calls only once, only for the areas specified for live 911 call location data in § 9.10(i)(3)(ii) of the rules,[131] and only for a thirty-day period following specified compliance dates. As noted above, we do not require similar reporting for RTT communications to 911.

99. We believe that these limited data collections strike an appropriate balance between the public safety community's interest in greater transparency with respect to compliance and our goal of limiting the burden of responding to mandatory information collections, particularly for small entities. These limited information collections will promote transparency by ensuring that the public has a clear understanding of timelines for providers' implementations of location-based routing technology and the level of compliance with location-based routing rules. Moreover, they will promote accountability by requiring CMRS providers to show steps they are taking to ensure that wireless 911 voice calls and RTT communications to 911 are routed to the appropriate PSAP.

100. *Recurring Reporting Requirements.* The Commission also sought comment on whether it should adopt recurring or ongoing reporting requirements. NASNA and COPUC support requiring CMRS providers to disclose on a recurring basis to the FCC how many 911 calls are routed by location-based routing and how many are routed using legacy E911 call routing. NASNA and COPUC argue that ''[t]his will allow the Commission to determine if certain carriers are resorting to default routing more frequently than others, which may prompt an investigation to determine if those carriers are making sufficient efforts to fully implement LBR.'' RWA opposes recurring data collection and reporting requirements as ''extremely burdensome'' for small providers, although it suggests that the Commission could request performance data on a voluntary basis. We believe that the one-time certification and reporting requirements we adopt will be sufficient for providers to demonstrate location-based routing implementation without posing an undue burden for providers, particularly small entities. Therefore, we decline to adopt ongoing reporting requirements.

101. Privacy and Security. The Electronic Privacy Information Center (EPIC) expresses concern about potential misuse of emergency location data and urges the Commission to clarify that the privacy and security requirements for dispatchable location and z-axis location data also apply to location-based routing data.[132] EPIC also

[130] *See* 47 CFR 0.459.

[131] CMRS providers providing service in any of the Test Cities or portions thereof must collect and report aggregate data on the location technologies used for live 911 calls in those areas. 47 CFR 9.10(i)(3)(ii). Non-nationwide CMRS providers are required to report from alternative areas as specified in 47 CFR 9.10(i)(3)(ii)(D) and (E).

[132] *See* Electronic Privacy Information Center (EPIC) Notice of Proposed Rulemaking Comments at 6–7 (rec. Feb. 16, 2023) (EPIC NPRM Comments). The Commission's data privacy and security requirements for dispatchable location and z-axis location information provide that prior to use of dispatchable location information or z-axis location information, respectively, to meet the location accuracy requirements, CMRS providers must certify that neither they nor any third party they rely on to obtain such location information will use

urges the Commission to clarify the data use cases that fall within the scope of ''911 purposes'' and to allow the use of such data only for routing calls and dispatch assistance. In particular, EPIC urges the Commission ''to clarify that law enforcement cannot use 911 location data for investigative leads or for enforcement unrelated to the purpose of the 911 call.'' EPIC also asks the Commission to clarify that carriers are responsible for their third-party vendors' collection, use, and disclosure of device-based location data.[133]

102. We agree that it is imperative for service providers to ensure the privacy and security of location-based routing information, and we adopt a rule clarifying that the Commission's existing rules on the privacy and security of dispatchable location and z-axis information apply to information used for location-based routing. In particular, we require CMRS providers to certify that neither they nor any third party they rely on to obtain location information or associated data used for compliance with the location-based routing requirements will use such information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law. The certification also must state that the CMRS providers and any third parties they rely on to obtain location information or associated data used for compliance with the location-based routing requirements have implemented measures sufficient to safeguard the privacy and security of such information.[134] These requirements make clear that CMRS providers who work with third-party vendors in the context of location-based routing are responsible for ensuring that those vendors take appropriate measures to address privacy and security concerns.[135] The privacy and security certifications are due at the same time as the other location-based routing certifications (*i.e.,* within 60 days after the compliance deadlines applicable to the CMRS providers under the location-based routing rules).

103. EPIC also asks the Commission to clarify how its privacy and security rules, including those governing using, disclosing, and permitting access to Customer Proprietary Network Information (CPNI), apply to device-based location data.[136] Section 222 of the Communications Act of 1934, as amended, requires CMRS providers, among others, to protect the confidentiality of location information and prohibits them from using, disclosing, or permitting access to location information without the customer's express prior authorization, but provides an exception for the provision of a customer's call location information to a PSAP or other emergency response authority in connection with a 911 call.[137] To help remove uncertainty for CMRS providers, we clarify that the obligations that apply to dispatchable location data also apply to location information used for location-based routing, including device-based location data.

104. We decline EPIC's request to clarify the definition of ''911 purposes.'' We believe that the Commission's existing privacy protections for 911 location data are sufficiently clear, and that determining whether a particular use of location data is for ''911 purposes'' is likely to be a fact-specific inquiry best addressed on a case-by-case basis as the need arises. We decline to address the issue of law enforcement's ability to use 911 location data for investigative or law enforcement purposes, as this is an area outside the Commission's regulatory authority. We also decline EPIC's request to require CMRS and covered text providers to delete location data as outside the scope of this proceeding, as the notice of proposed rulemaking did not propose or seek comment on requirements for data minimization. We recognize data minimization as an important tool to protect the privacy and security of customers' information, and we encourage providers not to retain 911 location routing data longer than is necessary to fulfill the 911 purpose of the data or comply with applicable law.

105. Per-Call Disclosure Requirements. The Commission sought comment on whether to require CMRS providers to disclose to PSAPs or state or local 911 authorities the routing methodology used for each 911 call, although the Commission declined to propose such a requirement. COPUC and BRETSA urge the Commission to require per-call disclosure. COPUC states that ''[n]ot knowing whether the call was routed using LBR technology or default E911 methodology, the PSAP will have to follow up on *every* misrouted call to determine the cause of the misroute.'' [138] BRETSA states that routing methodology information can allow dispatchers to assess the likelihood that they need to transfer the call and the reliability of the caller location information. However, T-Mobile and NENA argue that such a requirement is unnecessary.[139] T-Mobile asserts that the positioning technology used to route each call is not actionable for PSAPs and that in a full NG911 environment, positioning technology information will be available with each call. NENA similarly states that NG911 system elements already ''partly'' meet the need for per-call information on routing mechanisms and that additional standards development is under way and should meet this need ''in full.'' In light of the forthcoming development of NG911 standards that will support disclosure of per-call routing methodology, we agree with T-Mobile and NENA that any incremental benefit from requiring such disclosures at this time would not outweigh the potential costs of this requirement.

D. Additional Proposals

106. Several commenters raised additional issues or proposals in response to the notice of proposed rulemaking. We discuss each of these issues or proposals in turn below.

107. Role of Next Generation Core Services (NGCS) Providers. NENA and T-Mobile indicate that the proposals in the notice of proposed rulemaking

such location information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law. 47 CFR 9.10(i)(4)(iv) and (v). The certification must state that CMRS providers and any third party they rely on to obtain such location information will implement measures sufficient to safeguard the privacy and security of such location information. *Id.*

[133] EPIC NPRM Comments at 7. EPIC states that ''[t]he location data market is a multi-billion-dollar industry. Like many other companies that collect location data, carriers have sold their customers' information to data brokers who have then sold access to anyone willing to buy—from bounty hunters to the government. The disclosure and sale of location data has serious implications for equity because vulnerable people are most likely to be the targets of surveillance.'' *Id.* at 3 (footnotes omitted).

[134] Under the definition we adopt, location information used for location-based routing may include, but is not limited to, device-based location information.

[135] *Wireless E911 Location Accuracy Requirements,* PS Docket No. 07–114, Sixth Report and Order and Order on Reconsideration, 35 FCC Rcd 7752, 7777, at para. 57 (2020), 85 FR 53234 (August 28, 2020).

[136] *See* EPIC NPRM Comments at 5–6. The Commission's privacy rules, including those governing the use, disclosure, and access to CPNI, are at 47 CFR 64.2001 through 64.2011.

[137] 47 U.S.C. 222(d)(4)(A).

[138] COPUC NPRM Comments at 7 (also stating that if a call ''was routed using LBR and still was delivered to the wrong PSAP, that indicates the possibility of an error in the GIS [geographic information system] dataset being used by the CMRS provider to determine the proper destination for the 911 call'').

[139] AT&T NPRM Comments at 5; T-Mobile NPRM Comments at 8; T-Mobile NPRM Reply at 5–6; NENA NPRM Comments at 6 (stating that standards under development make such disclosure requirements unnecessary, but also stating that ''[i]t is imperative that the positioning source for the 9–1–1 caller is provided with the call'').

regarding routing obligations and ESInets may leave a regulatory gap with respect to routing functions performed by ESInet administrators and next generation core services (NGCS) providers.[140] T-Mobile notes that once a carrier hands the 911 call over to the NGCS provider at the ESInet ingress point, the carrier cannot control how the call is routed, and the notice of proposed rulemaking ''does not contemplate that the NGCS provider is *also* required to use LBR when routing to the appropriate PSAP.'' T-Mobile urges the Commission to ensure that carriers do not ''bear the burden of noncompliance'' after the carrier routes the 911 call to ESInets. Because the Commission only considered requirements for CMRS and covered text providers in the notice of proposed rulemaking, we decline to consider the role of NGCS providers in routing at this time and defer to the NG911 transition proceeding in PS Docket No. 21–479 the consideration of NGCS providers' responsibilities with regard to location-based routing and any related liabilities.

108. 2019 Wireline Forbearance Memorandum Opinion and Order. We received a comment from Mr. Ronald R. Fenwick urging the Commission to revisit and revise a 2019 Memorandum Opinion and Order in another proceeding which granted price cap incumbent Local Exchange Carriers (LECs) forbearance from legacy regulatory obligations. Mr. Fenwick asserts that the Memorandum Opinion and Order resulted in diminishing subscribers to traditional landline services, and that wireless customers are not properly apprised of the advantages of wireline service. We decline to revisit the 2019 Memorandum Opinion and Order, which does not deal with wireless services and is therefore outside the scope of this proceeding.

109. Calls and Texts Originating Outside the United States. We received a comment from staff of the Defense Information Systems Agency (DISA) asking the Commission to consider location-based routing for 911 calls and texts originating outside the United States and its territories. This request raises legal and policy issues that are beyond the scope of this proceeding.

110. Location-Based Routing for VoIP. We received a comment from DISA asking the Commission to apply location-based routing requirements to ''landline-based VoIP 9–1–1 calls coming from Ethernet wired end instruments and connecting to the Public Switch Telephone Network using Session Initiation Protocol (SIP) trunks from an IP–PBX.'' We note that in the Next Generation 911 proceeding (PS Docket 21–479), the Commission proposed rules (NG911 Notice of Proposed Rulemaking) requiring interconnected VoIP providers to complete all translation necessary to deliver 911 calls, including associated location information, in the requested IP-based format to an ESInet or other designated point(s) that allow emergency calls to be answered. We defer consideration of this issue to the Next Generation 911 proceeding.

E. Promoting Digital Equity and Inclusion

111. As noted in the notice of proposed rulemaking, the Commission is engaged in a continuing effort to advance digital equity for all,[141] including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality.[142] The notice of proposed rulemaking invited comment on equity-related considerations and benefits, if any, that may be associated with the proposals and issues under consideration. Specifically, the Commission sought comment on how its proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility.

112. Several parties submitted comments on these issues. NENA states that location-based routing should be deployed regardless of a jurisdiction's NG911 status and that ''[i]t would be inequitable to restrict the life-saving benefits of location-based routing'' only to those ''with the good fortune of having an emergency in a convenient location'' with NG911 capability. As discussed herein, we adopt rules that require CMRS providers to implement location-based routing on their IP-based networks for wireless 911 voice calls nationwide, regardless of whether a particular jurisdiction has NG911 capability. These rules will help to ensure that location-based routing is available for wireless 911 voice calls nationwide and regardless of the service provider the caller has chosen.

113. NASNA notes that in the notice of proposed rulemaking, the Commission sought comment not just on equity-related considerations, but also ''on the degree to which funding and operating transitional facilities extend the timeline and add to the cost incurred by state and local 911 authorities to transition to NG911.'' NASNA believes that ''these two issues are inextricably linked,'' and NASNA raises ''the issues facing our members in providing equal access to 911 services to all citizens through local NG911 systems.'' Pointing to the NG911 Notice of Proposed Rulemaking comment record as well, NASNA urges that ''the equity-access consideration for 911 at this point in time should begin at the network level in which 911 calls themselves are transported.'' NASNA states, ''If all those calling or texting 911 do not have a consistent level of access to network functionality, we believe the gap in digital disparity in effective and reliable access to 911 across the country will widen all the more.'' Because NASNA's comments regarding equity and access are more closely related to the NG911 proceeding than the instant proceeding, we defer consideration of these points to the NG911 proceeding.

114. COPUC advocates for applying the same implementation time frames for 911 texts that are being applied to wireless 911 voice calls (*i.e.,* six months for nationwide CMRS providers and eighteen months for non-nationwide CMRS providers) as ''a matter of equity for 911 users that rely on text-to-911.'' [143] As discussed herein, at this

[140] NENA NPRM Comments at 11 (''Under the proposal to establish an ESInet as a termination point for location, there may exist a gap in regulatory coverage. There may be a need to apply regulatory coverage to ESInet providers to ensure that calls and location are delivered through the ESInet all the way to the PSAP.''); T-Mobile NPRM Comments at 7 (asserting that there is a gap in the NPRM with respect to routing obligations for calls delivered to an ESInet and that ''[t]his raises the question of where the burden of compliance rests if a call is misrouted in this scenario'').

[141] Section 1 of the Communications Act of 1934 as amended provides that the FCC ''regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex.'' 47 U.S.C. 151.

[142] Notice of Proposed Rulemaking, 37 FCC Rcd at 15205–06, para. 59. The term ''equity'' is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. *See* E.O. 13985, 86 FR 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021).

[143] COPUC NPRM Comments at 8; *see also* NENA NPRM Reply at 9 (concurring with NASNA's equity comments on supporting location-based routing for text-to-911, but arguing that the Commission's rules ''should not back the market into adopting non-standardized technologies for a legacy platform''

time we decline to require location-based routing for text-to-911 services other than RTT communications to 911 in the absence of technical standards for location-based routing for SMS. However, we reiterate our commitment to monitoring the development of standards, products, and other advances affecting location-based routing for SMS text-to-911.

115. EPIC states that government entities, carriers, and others have misused location data to target individuals and groups, and says that ''the lack of clear privacy and security safeguards would have a disproportionately negative impact on certain vulnerable groups.'' [144] As discussed herein and consistent with certain of EPIC's requests, we adopt a requirement applying the Commission's existing rules on the privacy and security of dispatchable location and z-axis information to location-based routing information.

116. In sum, we acknowledge the importance of the continuing effort to advance digital equity for all. We believe that the rules we adopt, requiring CMRS providers to implement location-based routing on their IP-based networks for wireless 911 voice calls nationwide and requiring CMRS providers to implement location-based routing where they deploy RTT capabilities, will help to advance those goals.

F. Summary of Benefits and Costs for Location-Based Routing

117. As we discuss below, the implementation of location-based routing has potential annual benefits of over $173 billion in terms of reduced mortality and reduced call transfer burdens to PSAPs. We determine that the rules we adopt, which will affect CMRS providers, will result in an industry-wide compliance cost of $215 million.

1. Benefits of Location-Based Routing

118. We believe that the Commission's benefit assessment from the notice of proposed rulemaking remains valid. The Commission estimated that implementation of location-based routing would save 13,837 lives annually. While the Commission did not attempt to place a value on human life, it relied on the U.S. Department of Transportation's (DOT) valuation of a statistical life (VSL) of $11.8 million from base year 2021.[145] The Commission estimated that the benefit of reduced mortality would be 13,837 × $11.8 million or approximately $163 billion, but stated that this estimate was conservative.[146] We received no comments on the estimated reduced mortality benefit. Using the latest VSL of $12.5 million for base year 2022,[147] our new estimate of reduced mortality benefit is approximately $173 billion for wireless voice calls to 911. At this time, we have no data on the number of RTT communications to 911 to estimate a benefit from this service,[148] but we anticipate that as RTT usage becomes more widespread, significant reduced mortality benefits will accrue.

119. The Commission sought specificity on the time and cost savings to PSAPs and state and local 911 authorities under the proposed rules. While we received no specific figures in the record, BRETSA agrees that misrouting of 911 calls ties up resources at the PSAP to which the call was misrouted and delays receipt of the call at the PSAP that can dispatch first responders, while T-Mobile states that call transfers can delay emergency response and result in the loss of vital incident information, including caller location. The Commission estimated that with implementation of location-based routing, ''1,368,000 calls would avoid the need for a transfer due to a misroute, reducing the response time for these calls by one minute.'' [149] This would result in a time savings of 22,800 hours annually for PSAPs, although NENA estimates that call transfers consume over 200,000 hours per year of excess 911 professional labor. We estimate the mean wage of 911 call operators to be $25.04 per hour,[150] which leads to an estimated total labor cost of $36.31 per hour after accounting for benefits.[151] We estimate that PSAPs would realize an annual savings benefit range of approximately $0.8 million to $74.3 million per year for wireless 911 voice calls.[152] We do not have sufficient data to estimate such a benefit for RTT, though we similarly anticipate that time and cost savings benefits for PSAPs will accrue for RTT as usage grows.

2. Costs of Implementation

120. In the notice of proposed rulemaking, the Commission provided separate cost estimates for materials and labor. The Commission sought comment

and encouraging only voluntary deployment of location-based routing for ''interim'' text-to-911).

[144] EPIC NPRM Comments at 1; *see id.* at 2, 8 (noting that Microsoft also raised similar privacy and security concerns in earlier comments in the instant proceeding).

[145] Notice of Proposed Rulemaking, 37 FCC Rcd at 15207–08, para. 62 & n.162 (citing U.S. Department of Transportation, *Departmental Guidance on Valuation of a Statistical Life in Economic Analysis* (Mar. 4, 2022) (later updated May 1, 2023), *https://www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-in-economic-analysis*).

[146] Notice of Proposed Rulemaking, 37 FCC Rcd at 15207–08, para. 62 (stating that the estimate does not include ''the value of reduced human suffering and property destruction occurring due to a delayed arrival of first responders'' or ''the benefits of location-based routing for text messages'').

[147] *See* U.S. Department of Transportation, Departmental Guidance on Valuation of a Statistical Life in Economic Analysis (effective May 1, 2023), *https://www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-in-economic-analysis*.

[148] Respondents reported a combined total of 824,609 texts to 911 in 2022. Fifteenth Annual 911 Fee Report at 12–13, para. 14.

[149] Notice of Proposed Rulemaking, 37 FCC Rcd at 15206–07, para. 61 n.161. NENA estimates that 80% or more of the total calls to 911 annually are from wireless devices. NENA, *9–1–1 Statistics, https://www.nena.org/page/911Statistics* (last visited Jan. 17, 2024). According to the National Association of State Emergency Medical Services Officials (NASEMSO), local Emergency Medical Services (EMS) agencies respond to nearly 28.5 million 911 dispatches each year. NASEMSO (Laura French), *National Association of State EMS Officials releases stats on local agencies, 911 Calls* (Apr. 10, 2020), *https://www.ems1.com/ambulance-service/articles/national-association-of-state-ems-officials-releases-stats-on-local-agencies-911-calls-LPQTHJrK2oIpxuR1/*. Assuming that 80% of these calls are from wireless devices yields an estimate of 22.8 million wireless calls for 911 dispatch annually. The Commission estimated that 12% of the wireless calls for dispatch (or 2,736,000 calls) would be misrouted. Notice of Proposed Rulemaking, 37 FCC Rcd at 15206–07, para. 61 n.161 (citing *ATIS–0500039* at 4). The Commission also estimated that location-based routing with a horizontal uncertainty value of 300 meters would resolve approximately 50% of these misroutes. *Id.* (citing *ATIS–0500039* at 13). Accordingly, the Commission estimated that 1,368,000 calls would avoid the need for a transfer due to a misroute, reducing the response time for these calls by one minute. *Id.*

[150] The mean wage for Public Safety Telecommunicators in May 2022 was $23.74 per hour. U.S. Bureau of Labor Statistics, *Occupational Employment and Wages, May 2022, 43–5031 Public Safety Telecommunicators* (Apr. 25, 2023), *https://www.bls.gov/oes/current/oes435031.htm*. The average hourly private wage increased by 5.5% according to the Bureau of Labor Statistics between May 2022 and August 2023, so to correct for inflation we increase the wage estimate by 5.5% to $25.04 per hour. Federal Reserve Bank of St. Louis, *Average Hourly Earnings of All Employees, Total Private (CES0500000003), https://fred.stlouisfed.org/series/CES0500000003* (last visited Jan. 17, 2024) (*Inflation Adjustment*).

[151] To account for benefits, we mark up wages by 45%, which results in total hourly compensation of $25.04 × 145% = $36.31. According to the Bureau of Labor Statistics, as of June 2023, civilian wages and salaries averaged $29.86/hour and benefits averaged $13.39/hour. Total compensation therefore averaged $29.86 + $13.39, rounded to $43.26. *See* Press Release, Bureau of Labor Statistics, *Employer Costs for Employee Compensation—June 2023* (Sept. 12, 2023), *https://www.bls.gov/news.release/pdf/ecec.pdf*. Using these figures, benefits constitute a markup of $13.39/$29.86 ~ 45%.

[152] PSAPs would realize an annual savings benefit of 1,368,000 calls × 1 minute (0.0166 hours) × $36.31, or over $828,000 per year. Using NENA's estimate, PSAPs would realize a savings benefit of 200,000 hours × $36.31, or approximately $7.3 million per year.

on, *inter alia,* hardware, software, services, GIS, and testing; provider costs and timelines necessary to work with OS-based location providers; costs for providers to implement the required software, hardware, and service upgrades to comply with proposed rules; and how many work-hours and what kind of workers would be required; and planned or expended costs by providers that have implemented or plan to implement location-based routing. RWA and BRETSA state that non-nationwide and smaller carriers have not determined actual costs. We did not receive specific cost information to better inform the Commission's cost assessments. Commenters provided information about network elements, tasks, and burdens that would factor into costs; however, commenters generally discussed such factors in the context of seeking more time to comply rather than cost aspects.[153] RWA calls for additional time and Federal funding to support carrier implementation of location-based routing and alleges that RWA members will not be able to comply with an unfunded mandate. As discussed herein, we are increasing the timelines for non-nationwide CMRS providers to implement location-based routing for wireless 911 voice calls and RTT communications, and deferring consideration of location-based routing requirements for texts to 911 and requirements to deliver 911 calls and texts in IP-based format.

121. Material Costs. The Commission tentatively concluded that CMRS providers implement location-based routing at the PSAP level, while CMRS providers incur material costs on a per-PSAP basis. The Commission estimated that the average material cost of software features or component upgrades for each CMRS provider would be $10,000 per PSAP as an upper bound, with an ''implied material cost upper bound [of] approximately $106 million.'' [154] We received no comments to inform the Commission's material cost estimate for CMRS providers to deploy location-based routing to PSAPs they serve. However, commenters identified core network elements necessary to implement location-based routing. Intrado states that carriers will need to implement geospatial routing capable Gateway Mobile Location Centers (GMLCs) so that routing decisions will occur within their networks.[155] CCA states that ''[i]ncorporating location-based routing into the wireless ecosystem . . . requires a carefully orchestrated series of changes that affects the wireless carriers' device inventory, transport networks, and several aspects of the core network systems. These potentially include access and mobility management, data authentication, geospatial data repository functions, session management, and network security.'' CCA further states that carriers will need to ''implement the array of device upgrades and non-standard, proprietary network solutions needed for location-based routing.'' RWA describes hardware and software modifications needed to implement location-based routing as a ''massive expense,'' and notes that member budgets for capital expenses are ''already pared close to the bone.''

122. We agree with commenters that providers have certain material costs associated with the network core that are not necessarily dependent on the number of PSAPs they serve. We clarify, however, that the material costs that we calculated on a per-PSAP basis in the notice of proposed rulemaking also include other costs that are not necessarily incurred at the PSAP. We agree that implementation costs of upgrading equipment or software can, for instance, involve changes to the network core. We also note that such costs vary with the size of the network that remains to be converted to location-based routing, especially if any equipment needs to be updated. We therefore chose the per-PSAP basis because we find it a convenient proxy of remaining network area. T-Mobile and Verizon report partial implementation of location-based routing based on the number of PSAPs. For providers with no known implementation, the number of their covered PSAPs serves as a proxy for the size of their entire network. We therefore continue to use the per-PSAP basis as a proxy for network size in our current material costs calculations. We note, additionally, that even if the per-PSAP cost that we use below were to double, the aggregate expected costs of our rules would fall well below the expected benefits.

123. The latest NENA data indicate that 5,748 PSAPs operate in the United States. AT&T has already deployed location-based routing nationwide, so our rules impose no additional material costs for AT&T. The Commission did not provide an estimate of T-Mobile's material costs in the notice of proposed rulemaking. As of December 2023, T-Mobile states that it has fully implemented location-based routing for 1,591 PSAPs, with an additional 596 PSAPs in progress. Thus, T-Mobile must implement location-based routing to 3,561 remaining PSAPs. The Commission did not provide an estimate of Verizon's material costs in the notice of proposed rulemaking, but Verizon states that it has ''fully implemented LBR for 414 PSAPs; implementation is in progress for an additional 277 PSAPs.'' Thus, the rules would impose no additional material costs for existing and planned deployments to Verizon for 691 PSAPs, which leaves 5,057 PSAPs remaining for Verizon to implement location-based routing. The remaining CMRS providers collectively must upgrade the full national set of 5,748 PSAPs, assuming no more than one remaining CMRS provider serving a particular PSAP.[156] Using the Commission's $10,000 per PSAP upper bound in the notice of proposed rulemaking, we estimate that CMRS providers collectively need to deploy location-based routing to a total of 14,366 PSAPs,[157] resulting in the

[153] For example, CCA states that location-based routing implementation will be economically and practically infeasible in the proposed eighteen-month timeline for non-nationwide carriers, noting that a nationwide carrier took four years. CCA NPRM Comments at 2.

[154] Notice of Proposed Rulemaking, 37 FCC Rcd at 15210–11, para. 71. The Commission assumed no material costs for AT&T because it has already deployed location-based routing to its network. *Id.* at 15210, para. 71. The Commission stated (at the time of the notice of proposed rulemaking) that it is unclear the extent to which Verizon plans to implement location-based routing, and did not estimate Verizon's material costs. *Id.* at 15210–11, para. 71. The Commission found that T-Mobile has yet to implement location-based routing to 4,896 PSAPs, while non-nationwide CMRS providers collectively must upgrade 5,728 PSAPs, with any PSAP receiving service from usually one non-nationwide CMRS provider along with the nationwide CMRS providers. *Id.* at 15211, para. 71. The Commission found that T-Mobile and non-nationwide CMRS providers need to implement location-based routing for 10,624 PSAPs (4,896 + 5,728), at $10,000 per PSAP, for a cost of approximately $106 million. *Id.*

[155] Intrado NPRM Comments at 3. NENA defines a GMLC as ''the point of interface between the GSM [Global Standard for Mobile Communications] wireless network and the Emergency Services Network. The GMLC retrieves, forwards, stores and controls position data associated with wireless callers. This includes the processing of location requests and updates (rebids).'' NENA, *GMLC/MLC (Gateway Mobile Location Center)* (Sept. 13, 2021), *https://kb.nena.org/wiki/GMLC/MLC_(Gateway_Mobile_Location_Center.*)

[156] *See* Notice of Proposed Rulemaking, 37 FCC Rcd at 15211, para. 71 (citing FCC, *Mobile Deployment Form 477 Data* (Jul. 29, 2022), *https://www.fcc.gov/mobile-deployment-form-477-data,* and stating that ''[s]taff analysis of Form 477 data suggests that when that when there is a fourth non-nationwide wireless provider in any particular location, it is usually the only one'').

[157] We count 3,561 PSAPs remaining for T-Mobile, 5,057 PSAPs remaining for Verizon, and 5,748 PSAPs for the CMRS providers that have not yet begun to implement location-based routing.

implied material cost of approximately $143.7 million.

124. Labor Costs. The Commission estimated that the labor cost per CMRS provider is $366,600.[158] The Commission explicitly mentioned the tasks of installing equipment and running trials as part of this labor. Commenters described other tasks such as internal planning, outreach, and testing. Since these tasks do not involve materials but rather involve work burdens, we categorize them as labor costs for the purpose of this analysis.

125. Labor Costs (i): Internal Planning. CCA described CMRS providers' internal planning tasks prior to implementation of location-based routing, which we categorize under labor. CCA states that carriers will need to vet and select potentially appropriate technical location-based routing solutions, budget for related required procurements, and make related plans to allocate and prioritize necessary resources to the projects.[159] CCA states that ''[t]he proposed rule would require carriers with IP-based networks to make major strategic decisions for their wireless networks'' and ''stand up project teams [comprised] of senior engineers and business leaders with specialized experience in network operations to assess the needs of the marketplace and review the state of technology development globally, nationally, and with respect to their individual network technologies.'' CCA states that carriers will need to make ''a candid assessment of existing network resources, the purposeful allocation of limited technical and business resources, and a successful matching of technology within the market to the unique features of that carrier's network systems and status within the product evolution lifecycle'' and conduct ''intensive'' decision making.

126. Labor Costs (ii): Outreach. Next, CCA described providers' outreach tasks, such as collaboration with network and handset vendors; and work with device makers, technology vendors, and software service providers. However, CCA notes that non-nationwide CMRS providers face challenges attracting attention and assistance from global and national vendors who are more responsive to larger clients.

127. Labor Costs (iii): Deployment. Commenters provided few details of labor tasks associated with deployment, including equipment and device installation and upgrades.

128. Labor Costs (iv): Testing. Commenters described CMRS providers' testing tasks involved with location-based routing implementation. RWA states that providers will need to ''test, modify, [and] perfect'' location-based routing solutions. CCA states that AT&T performed extensive lab testing, performance testing, trials at PSAPs, evaluation of results with its vendor Intrado, and additional PSAP testing. CCA states that AT&T ''confirm[ed] the metrics, obtain[ed] feedback from the PSAPs, and implement[ed] several proprietary changes.''

129. While the notice of proposed rulemaking explicitly mentioned the tasks of installing equipment and running trials as part of its labor calculation, the estimate was not meant to be solely inclusive of all tasks. According to Commission staff experience with typical network upgrades, team members will often work on tasks from multiple of the above categories of internal planning, outreach, deployment, and testing. The notice of proposed rulemaking calculation assumes a large team of ten workers over a period of six months to account for the various phases of labor and shifting tasks amongst workers.

130. Absent more specific data in the record on each task category, we rely on the Commission's labor cost estimation methodology per CMRS provider.[160] To better reflect the wide array of complex tasks, including internal network planning, that would need to be undertaken by highly skilled and senior staff, we will assume a higher wage for the workers than that assumed in the notice of proposed rulemaking because some of the tasks involved will have to be undertaken by senior staff. To the extent that less senior staff would be necessary to complete any of these tasks, we view the wage that we use as conservatively high. Using the Bureau of Labor Statistics 75th percentile wage for network engineers, we assume worker compensation to be $81.29 per hour.[161] Marking up hourly compensation by 45% to account for benefits results in a total hourly compensation estimate of $117.87. Assuming that work is completed over 26 work-weeks of five, 8 work-hour days, and a team of 10, the aggregate upper bound of work-hours would be 10,400 and the total cost of those work-hours would be $1,225,853. While non-nationwide CMRS providers will have 24 months rather than six to implement location-based routing, smaller CMRS providers have constraints on the number of staff they can assign to any one project. In addition, while non-nationwide CMRS providers may take longer to implement location-based routing, assigning the same amount of work-time as nationwide CMRS providers represents both the spreading out of tasks over a longer period and an overestimate since non-nationwide CMRS providers have much smaller networks. Given that AT&T has already implemented location-based routing, we estimate the labor cost associated with implementation for the networks for the 56 remaining providers, plus T-Mobile and Verizon, to be $71.1 million ($\approx \$1{,}225{,}853 \times 58$ providers = $71,099,474).[162]

131. In addition to network costs, several commenters indicate that public safety-grade GIS data or shapefiles that precisely define PSAP boundaries should be developed or provided, though they differ on which parties should be responsible.[163] We agree with

[158] Notice of Proposed Rulemaking, 37 FCC Rcd at 15211–12, para. 72 (estimating that the labor cost of employing software workers would be $35.25 per hour; that the upper bound of the time to implement the upgrades with trials is 6 months (26 weeks), and workers have a forty hour work week, or 1,040 hours per worker; that ten simultaneous workers at a time on average is a generous upper bound, resulting in 10,400 labor hours per CMRS provider; and that the labor cost per CMRS provider is $366,600).

[159] CCA NPRM Reply at 5. The planning costs CCA cites include ''identifying acceptance of the technical implementation.'' CCA NPRM Comments at 11.

[160] Notice of Proposed Rulemaking, 37 FCC Rcd at 15211–12, para. 72 (estimating that the labor cost of employing software workers would be $35.25 per hour; that the upper bound of the time to implement the upgrades with trials is 6 months (26 weeks), and workers have a forty hour work week, or 1,040 hours per worker; that ten simultaneous workers at a time on average is a generous upper bound, resulting in 10,400 labor hours per CMRS provider; and that the labor cost per CMRS provider is $366,600).

[161] The Bureau of Labor Statistics considers the title ''computer network architect'' to be synonymous with ''network engineer.'' U.S. Bureau of Labor Statistics, *Computer Network Architects: What Computer Network Architects Do* (Sept. 12, 2023), *https://www.bls.gov/ooh/computer-and-information-technology/computer-network-architects.htm#tab-2*. To approximate the wages of senior network engineers, we use the 75th percentile of the hourly wage of computer network architects in May 2022, $77.06 per hour. U.S. Bureau of Labor Statistics, *Occupational Employment and Wages, May 2022, 15–1241 Computer Network Architects* (Apr. 25, 2023), *https://www.bls.gov/oes/current/oes151241.htm*. After adjusting for wage inflation to August 2023, the wage increases to $81.29 per hour. *See Inflation Adjustment*.

[162] To the extent that T-Mobile and Verizon have already begun implementing location-based routing, this cost may be an overestimate.

[163] Intrado NPRM Comments at 3 (suggesting carriers and the PSAPs should develop GIS data); BRETSA NPRM Reply at ii (suggesting state and/or local 911 authorities should develop GIS data); T-Mobile NPRM Comments at 6 (suggesting that PSAPs should provide shapefiles, though some PSAPs may not want to provide shapefiles because they consider such information confidential); *see also* CCOA NPRM Reply at 3; CTIA NPRM Reply

Continued

NENA that it is the responsibility of providers to maintain their own jurisdictional maps. Accordingly, we assign the cost of maps to the providers. We anticipate that map costs will largely be labor to update already existing maps. To come up with a cost ceiling, we assume that every provider will need to update its maps, even though many providers likely have up-to-date maps. We anticipate that updating the map will only entail labor costs for mapping specialists to update maps. In the Supporting Document of Study Area Boundary Data Reporting in Esri Shapefile Format, the Office of Information and Regulatory Affairs estimates that it takes an average of 26 hours for a data scientist to modify a shapefile.[164] We believe that 26 hours would be an upper bound of the time required for a party to update its maps. Given that the average wage rate is $60.44/hour for data scientists in the telecommunications industry,[165] with a 45% markup for benefits, we arrive at $87.63 as the hourly compensation rate for a data scientist. We estimate an upper bound for the cost of map updating to be approximately $134,000 (≈ $87.63 per hour × 26 hours × 59 providers = $134,424.42).

132. In addition, the one-time certification of compliance with our requirements together with the submission of data on call percentages by routing methods will impose a one-time cost on CMRS providers. As this required information should be available to each provider internally, we anticipate work to compile this information to take no longer than a week of five business days. We believe that one network engineer would be sufficient to complete this task in this time frame, resulting in a total provider cost of 40 work-hours. Assuming the same hourly labor cost of network engineers as in the previous cost estimate for network implementation, the total cost of reporting is $280,000 (≈ $117.87 per hour × 40 hours × 59 providers = $278,173.20).

133. The Commission sought comment on costs to state and local 911 authorities. Intrado and APCO state that PSAPs will not need to make changes to their networks or call handling systems. We agree. Likewise, because we find that providers must maintain their own jurisdictional maps, we do not recognize any costs for state and local 911 authorities and PSAPs.

134. Because we are adopting location-based routing requirements for RTT, we also consider the costs for CMRS providers. Given that CMRS providers process and route RTT communications similarly to voice calls, we assume that CMRS providers' material and labor costs to deploy location-based routing for RTT are included in our cost estimates above. As part of this analysis, we note that as of the release date of the Report and Order, we are aware of only a small number of PSAPs that are receiving RTT communications.

135. In sum, we estimate upper bounds of the costs that CMRS providers will bear to be material costs of $143.7 million, network implementation costs of $71.1 million, GIS costs of $134,000, and certification costs of $280,000. Altogether, the upper bound of costs is approximately $215 million. However, we underscore that this cost is far outweighed by the benefits of over $173 billion in terms of reduced mortality and call transfer time eliminated.

II. Procedural Matters

136. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),[166] requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' [167] Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this document and the Report and Order on small entities. The FRFA is set forth below.

137. *Paperwork Reduction Act of 1995 Analysis.* This document contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA.[168] OMB, the general public, and other Federal agencies will be invited to comment on the new information collection requirements contained in this proceeding. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002,[169] we previously sought, but did not receive, specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission does not believe that the new information collection requirements in § 9.10(s)(4) and (5) will be unduly burdensome on small businesses. We describe impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the FRFA below.

III. Final Regulatory Flexibility Analysis

138. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM* adopted in December 2022. The Commission sought written public comment on the proposals in the *NPRM,* including comments on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Final Rules

139. Technical limitations of legacy Enhanced 911 (E911) routing can result in a Commercial Mobile Radio Service (CMRS) provider routing a wireless 911 call to a Public Safety Answering Point (PSAP) other than the one designated by the relevant state or local 911 authority to receive calls from the actual location of the caller. Misroutes can occur for several reasons, including when more than one PSAP is within the coverage area of a cell site or sector. Such legacy tower-based routing results in approximately 12% of wireless 911 calls arriving at the incorrect PSAP for the caller's location. When a 911 call is misrouted, the answering telecommunicator must transfer the call to the PSAP that has jurisdiction to

at 3, 6–7 (agreeing with T-Mobile regarding the need for accurate shapefiles of PSAP boundaries).

[164] *See* Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President, 2022 Study Area Boundary Data Reporting in Esri Shapefile Format, DA 12–1777 and DA 13–282, Supporting Statement—OMB Control No. 3060–1181, at 5, para. 12 (Feb. 15, 2022), *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202202-3060-009*; *see also Wireless Emergency Alerts*; *Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System,* PS Docket Nos. 15–91 and 15–94, Third Report and Order, FCC 23–88, at 37, para. 66 (Oct. 20, 2023).

[165] The mean hourly wage for data scientists in the telecommunications industry in May 2022 is $57.29. U.S. Bureau of Labor Statistics, *May 2022 National Industry-Specific Occupational Employment and Wage Estimates NAICS 517000—Telecommunications* (Apr. 25, 2023), *https://www.bls.gov/oes/current/naics4_517000.htm.* After adjusting for wage inflation to August 2023, the wage increases to $60.44 per hour. *See Inflation Adjustment.*

[166] *See* 5 U.S.C. 604. The RFA, 5 U.S.C. 601–612. The RFA was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[167] 5 U.S.C. 605(b).

[168] 44 U.S.C. 3507(d).

[169] Public Law 107–198, 116 Stat. 729 (2002) (codified at 44 U.S.C. 3506(c)(4)).

dispatch aid to the 911 caller's location, resulting in confusion and an estimated delay of a minute or more in dispatch and response. This delay can have deadly consequences. In addition, misroutes consume time and resources for both the transferring PSAP and the receiving PSAP. One national public safety organization estimates that these types of call transfers consume over 200,000 hours per year of excess 911 professional labor.

140. In the Report and Order, the Commission adopted rules and procedures to require CMRS providers to implement location-based routing (LBR) for wireless 911 voice calls and real-time text (RTT) communications to 911 nationwide. With location-based routing as implemented under the Commission's rules, CMRS providers will use precise location information to route wireless 911 voice calls and RTT communications to 911 to the appropriate public safety answering point. For the millions of individuals seeking emergency assistance each year by wireless 911 voice call or RTT communication to 911, improving routing for these services will reduce emergency response time and save lives.

141. To facilitate the implementation of location-based routing for wireless 911 voice calls and RTT communications to 911, the Commission took the following actions:

- The Commission required CMRS providers to deploy location-based routing technology for wireless 911 voice calls and RTT communications to 911 on their internet Protocol (IP)-based networks (*i.e.,* 4G LTE, 5G, and subsequent generations of IP-based networks). The Commission also required CMRS providers to use location-based routing to route wireless 911 voice calls and RTT communications to 911 originating on their IP-based networks when location information meets certain thresholds for accuracy and timeliness.
- The Commission required CMRS providers to use location-based routing for wireless 911 voice calls and RTT communications to 911 when caller location information available to the CMRS provider's network at time of routing is ascertainable within a radius of 165 meters at a confidence level of at least 90%. In the absence of these conditions, CMRS providers must use alternative routing methods based on ''best available'' location information, which may include but is not limited to device-based or tower-based location information.
- The Commission adopted the proposed six-month timeline for nationwide CMRS providers to implement location-based routing for wireless 911 voice calls and provided twenty-four months for implementation by non-nationwide CMRS providers. In addition, the Commission provided 24 months for all CMRS providers to implement location-based routing for RTT communications to 911.
- The Commission required CMRS providers within 60 days of the applicable compliance deadlines to certify and submit evidence of compliance with location-based routing requirements and to certify the privacy of location information used for location-based routing. At that time, CMRS providers also must submit one-time live call data reporting specifying routing methodologies for calls in live call areas.
- The Commission deferred consideration of proposals in the *NPRM* to require CMRS providers and covered text providers to implement location-based routing for Short Message Service (SMS) texts to 911.
- The Commission deferred consideration of proposals and issues raised in the *NPRM* concerning IP-formatted delivery of wireless 911 voice calls, texts, and associated routing information, for consideration in the Commission's pending Next Generation 911 (NG911) Transition docket (PS Docket No. 21–479, Facilitating Implementation of Next Generation 911 Services).

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

142. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

143. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

144. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.'' A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

145. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

146. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

147. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with

enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

IV. Telecommunications Service Providers

A. Wireless Telecommunications Providers

148. Pursuant to 47 CFR 9.10(a), the Commission's 911 service requirements are only applicable to CMRS providers, excluding mobile satellite service (MSS) operators, to the extent that they: (1) offer real-time, two way switched voice service that is interconnected with the public switched network; and (2) use an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. These requirements are applicable to entities that offer voice service to consumers by purchasing airtime or capacity at wholesale rates from CMRS licensees.

149. Below, for those services subject to auctions, we note that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

150. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (*e.g.,* dial-up internet service providers (ISPs)) or Voice over internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Based on this data, the Commission estimates that the majority of ''All Other Telecommunications'' firms can be considered small.

151. *Advanced Wireless Services (AWS)—(1710–1755 MHz and 2110–2155 MHz bands (AWS–1); 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS–2); 2155–2175 MHz band (AWS–3); 2000–2020 MHz and 2180–2200 MHz (AWS–4)).* Spectrum is made available and licensed in these bands for the provision of various wireless communications services. Wireless Telecommunications Carriers (except Satellite) is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

152. According to Commission data as December 2021, there were approximately 4,472 active AWS licenses. The Commission's small business size standards with respect to AWS involve eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of AWS licenses, the Commission defined a ''small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a ''very small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. Pursuant to these definitions, 57 winning bidders claiming status as small or very small businesses won 215 of 1,087 licenses. In the most recent auction of AWS licenses 15 of 37 bidders qualifying for status as small or very small businesses won licenses.

153. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

154. *Competitive Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local exchange service providers. Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

155. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 1,212 providers that reported they were incumbent local exchange service providers. Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

156. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum encompasses

services in the 1850–1910 and 1930–1990 MHz bands. The closest industry with an SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (except Satellite). The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

157. Based on Commission data as of November 2021, there were approximately 5,060 active licenses in the Broadband PCS service. The Commission's small business size standards with respect to Broadband PCS involve eligibility for bidding credits and installment payments in the auction of licenses for these services. In auctions for these licenses, the Commission defined ''small business'' as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and a ''very small business'' as an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding $15 million for the preceding three years. Winning bidders claiming small business credits won Broadband PCS licenses in C, D, E, and F Blocks.

158. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

159. *Narrowband Personal Communications Services.* Narrowband Personal Communications Services (*Narrowband PCS*) are PCS services operating in the 901–902 MHz, 930–931 MHz, and 940–941 MHz bands. PCS services are radio communications that encompass mobile and ancillary fixed communication that provide services to individuals and businesses and can be integrated with a variety of competing networks. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

160. According to Commission data as of December 2021, there were approximately 4,211 active *Narrowband PCS* licenses. The Commission's small business size standards with respect to *Narrowband PCS* involve eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of these licenses, the Commission defined a ''small business'' as an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is defined as an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. Pursuant to these definitions, 7 winning bidders claiming small and very small bidding credits won approximately 359 licenses. One of the winning bidders claiming a small business status classification in these *Narrowband PCS* license auctions had an active license as of December 2021.

161. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

162. *Offshore Radiotelephone Service.* This service operates on several ultra high frequency (UHF) television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with an SBA small business size standard applicable to this service. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small. Additionally, based on Commission data, as of December 2021, there was one licensee with an active license in this service. However, since the Commission does not collect data on the number of employees for this service, at this time we are not able to estimate the number of licensees that would qualify as small under the SBA's small business size standard.

163. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, Global Positioning System (GPS) equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small. U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year. Of this number, 624 firms had fewer than 250 employees. Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

164. *Rural Radiotelephone Service.* Neither the Commission nor the SBA have developed a small business size standard specifically for small businesses providing Rural Radiotelephone Service. Rural Radiotelephone Service is radio service in which licensees are authorized to offer and provide radio telecommunication services for hire to subscribers in areas where it is not feasible to provide communication services by wire or other means. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System

(BETRS). Wireless Telecommunications Carriers (*except* Satellite) is the closest applicable industry with an SBA small business size standard. The SBA small business size standard for Wireless Telecommunications Carriers (*except* Satellite) classifies firms having 1,500 or fewer employees as small. For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year. Of this total, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that the majority of Rural Radiotelephone Services firm are small entities. Based on Commission data as of December 27, 2021, there were approximately 119 active licenses in the Rural Radiotelephone Service. The Commission does not collect employment data from these entities holding these licenses and therefore we cannot estimate how many of these entities meet the SBA small business size standard.

165. *Wireless Communications Services.* Wireless Communications Services (WCS) can be used for a variety of fixed, mobile, radiolocation, and digital audio broadcasting satellite services. Wireless spectrum is made available and licensed for the provision of wireless communications services in several frequency bands subject to part 27 of the Commission's rules. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

166. The Commission's small business size standards with respect to WCS involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in WCS. When bidding credits are adopted for the auction of licenses in WCS frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in the designated entities section in part 27 of the Commission's rules for the specific WCS frequency bands.

167. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

168. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

169. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable industry with an SBA small business size standard is Wireless Telecommunications Carriers (except Satellite). The size standard for this industry under SBA rules is that a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 331 providers that reported they were engaged in the provision of cellular, personal communications services, and specialized mobile radio services. Of these providers, the Commission estimates that 255 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

170. *700 MHz Guard Band Licensees.* The 700 MHz Guard Band encompasses spectrum in 746–747/776–777 MHz and 762–764/792–794 MHz frequency bands. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with an SBA small business size standard applicable to licenses providing services in these bands. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

171. According to Commission data as of December 2021, there were approximately 224 active 700 MHz Guard Band licenses. The Commission's small business size standards with respect to 700 MHz Guard Band licensees involve eligibility for bidding credits and installment payments in the auction of licenses. For the auction of these licenses, the Commission defined a ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years, and a ''very small business'' an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Pursuant to these definitions, five winning bidders claiming one of the small business status classifications won 26 licenses, and one winning bidder claiming small business won two licenses. None of the winning bidders claiming a small business status classification in these 700 MHz Guard Band license auctions had an active license as of December 2021.

172. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the

close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

173. *Lower 700 MHz Band Licenses.* The lower 700 MHz band encompasses spectrum in the 698–746 MHz frequency bands. Permissible operations in these bands include flexible fixed, mobile, and broadcast uses, including mobile and other digital new broadcast operation; fixed and mobile wireless commercial services (including frequency division duplex (FDD)- and time division duplex (TDD)-based services); as well as fixed and mobile wireless uses for private, internal radio needs, two-way interactive, cellular, and mobile television broadcasting services. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with an SBA small business size standard applicable to licenses providing services in these bands. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

174. According to Commission data as of December 2021, there were approximately 2,824 active Lower 700 MHz Band licenses. The Commission's small business size standards with respect to Lower 700 MHz Band licensees involve eligibility for bidding credits and installment payments in the auction of licenses. For auctions of Lower 700 MHz Band licenses the Commission adopted criteria for three groups of small businesses. A very small business was defined as an entity that, together with its affiliates and controlling interests, has average annual gross revenues not exceeding $15 million for the preceding three years, a small business was defined as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and an entrepreneur was defined as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $3 million for the preceding three years. In auctions for Lower 700 MHz Band licenses seventy-two winning bidders claiming a small business classification won 329 licenses, twenty-six winning bidders claiming a small business classification won 214 licenses, and three winning bidders claiming a small business classification won all five auctioned licenses.

175. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

176. *Upper 700 MHz Band Licenses.* The upper 700 MHz band encompasses spectrum in the 746–806 MHz bands. Upper 700 MHz D Block licenses are nationwide licenses associated with the 758–763 MHz and 788–793 MHz bands. Permissible operations in these bands include flexible fixed, mobile, and broadcast uses, including mobile and other digital new broadcast operation; fixed and mobile wireless commercial services (including FDD- and TDD-based services); as well as fixed and mobile wireless uses for private, internal radio needs, two-way interactive, cellular, and mobile television broadcasting services. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with an SBA small business size standard applicable to licenses providing services in these bands. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

177. According to Commission data as of December 2021, there were approximately 152 active Upper 700 MHz Band licenses. The Commission's small business size standards with respect to Upper 700 MHz Band licensees involve eligibility for bidding credits and installment payments in the auction of licenses. For the auction of these licenses, the Commission defined a ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years, and a ''very small business'' an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Pursuant to these definitions, three winning bidders claiming very small business status won five of the twelve available licenses.

178. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

179. *Wireless Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Wireless Resellers. The closest industry with an SBA small business size standard is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications and they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under the SBA size standard for this industry, a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services during that year. Of that number, 1,375 firms operated with fewer than 250 employees. Thus, for this industry under the SBA small

business size standard, the majority of providers can be considered small entities.

B. Equipment Manufacturers

180. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small. U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year. Of this number, 624 firms had fewer than 250 employees. Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

181. *Semiconductor and Related Device Manufacturing.* This industry comprises establishments primarily engaged in manufacturing semiconductors and related solid state devices. Examples of products made by these establishments are integrated circuits, memory chips, microprocessors, diodes, transistors, solar cells and other optoelectronic devices. The SBA small business size standard for this industry classifies entities having 1,250 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 729 firms in this industry that operated for the entire year. Of this total, 673 firms operated with fewer than 250 employees. Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

C. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

182. The rules adopted to implement location-based routing for wireless 911 voice calls and RTT communications to 911 will impose new or additional reporting, recordkeeping, and/or other compliance obligations on small entities. Small and other CMRS providers are required to certify their compliance with the applicable location-based routing requirements, and inform the Commission of the specific network architecture, systems, and location validation procedures used to comply with the location-based routing requirements. More specifically, the adopted rules require small and other CMRS providers, within 60 days after their respective deadlines, to deploy location-based routing on their IP-based networks, and submit a one-time certification with substantiating evidence of compliance with location-based routing requirements applicable to them as of the deadline. As part of the certification, small and other CMRS providers must: (i) substantiate compliance by identifying specific network architecture, systems, location validation, and procedures used to comply with the location-based routing rules; (ii) collect and report aggregate information on the routing technologies for all live wireless 911 voice calls in the locations specified for live 911 call location data under the Commission's rule at 47 CFR 9.10(i)(3)(ii); and (iii) certify that location information used for location-based routing by service providers and third parties will only be used for valid 911 purposes. Small and other CMRS providers can request confidential treatment of any information they submit in accordance with the Commission's confidentiality rules.

183. In the *NPRM,* the Commission sought comments on the proposals in this proceeding and requested cost and benefit information to help the Commission identify and evaluate relevant matters for small entities. Although several comments filed in response to the *NPRM* discussed categories of potential expenses to comply with location-based routing requirements, and any related reporting and recordkeeping requirements, with some asserting that there would be a greater burden on smaller providers, these comments and the record as a whole do not contain detailed information on costs required for either small or large entities. In fact, the Rural Wireless Association (RWA) and the Boulder Regional Emergency Telephone Service Authority (BRETSA) expressly indicated that neither non-nationwide nor small carriers have determined their implementation costs. Moreover, while stating that ''[t]he $366,600 figure referenced in the NPRM may be a conservative estimate,'' RWA did not provide an alternative to the Commission's estimate and noted that to date, RWA members have not received any specific vendor estimates regarding their actual cost of compliance.

184. In the *NPRM,* the Commission proposed an ''upper bound'' estimate for labor costs of $366,600 per CMRS provider, and for material costs such as software features or component upgrades for each CMRS provider, of $10,000 per PSAP. In response to the comments we received, we clarify that material costs estimated in the NPRM are not limited to those incurred at the PSAP, but also in the network core, and that the per PSAP calculation is a proxy for the size of the network that remains to be converted to location-based routing. Using the Commission's methodology in the *NPRM,* we estimate that CMRS providers collectively need to deploy location-based routing to a total of 14,366 PSAPs, resulting in the implied material cost of approximately $143.7 million.

185. Our total labor costs analysis added internal planning, outreach, and testing to the costs for equipment installation and conducting trials the Commission proposed and discussed in the *NPRM.* To better reflect the wide array of complex tasks that will be undertaken with highly skilled and senior staff, we will assume a higher wage for the workers than that assumed in the *NPRM* because some of the tasks involved will have to be undertaken by senior staff. Using the Bureau of Labor Statistics 75th percentile wage for network engineers, we assume worker compensation to be $81.29 per hour. Marking up hourly compensation by 45% to account for benefits results in a total hourly compensation estimate of $117.87. Assuming that work is completed over 26 work-weeks of five, 8 work-hour days, and a team of 10, the aggregate upper bound of work-hours would 10,400 and the total cost of those work-hours would be $1,225,853. While non-nationwide CMRS providers will have 24 months rather than six to implement location-based routing, smaller CMRS providers have constraints on the number of staff they can assign to any one project. In addition, while non-nationwide CMRS providers may take longer to implement location-based routing, assigning the same amount of work-time as nationwide CMRS providers represents both the spreading out of tasks over a longer period and an overestimate since non-nationwide CMRS providers have much smaller networks. Given that AT&T has already implemented location-based routing, we estimate the labor cost associated with implementation for network for the 56 remaining providers, plus T-Mobile and Verizon, to be $71 million (≈ $1,225,853 × 58 providers = $71,099,474).

186. In addition to network costs, several commenters indicate that public safety-grade GIS data or shapefiles that precisely define PSAP boundaries should be developed or provided, though they differ on which parties should be responsible. We agree with

NENA that it is the responsibility of providers to maintain their own jurisdictional maps. Accordingly, we assign the cost of maps to the providers. We anticipate that map costs will largely be labor to update already existing maps. To come up with a cost ceiling, we assume that every provider will need to update its maps, even though many providers likely have up-to-date maps. We anticipate that updating the map will only entail labor costs for mapping specialists to update maps. In the Supporting Document of Study Area Boundary Data Reporting in Esri Shapefile Format, the Office of Information and Regulatory Affairs estimates that it takes an average of 26 hours for a data scientist to modify a shapefile. We believe that 26 hours would be an upper bound of the time required for a party to update its maps. Given that the average wage rate is $60.44/hour for data scientists in the telecommunications industry, with a 45% markup for benefits, we arrive at $87.63 as the hourly compensation rate for a data scientist. We estimate an upper bound for the cost of map updating to be approximately $134,000 (≈ $87.63 per hour × 26 hours × 59 providers = $134,424.42).

187. In addition, the one-time certification of compliance with our requirements together with the submission of data on call percentages by routing methods will impose a one-time cost on CMRS providers. As this required information should be available to each provider internally, we anticipate work to compile this information to take no longer than a week of five business days. We believe that one network engineer would be sufficient to complete this task in this time frame, resulting in a total provider cost of 40 work-hours. Assuming the same hourly labor cost of network engineers as in the previous cost estimate for network implementation, the total cost of reporting is $280,000 (≈ $117.87 per hour × 40 hours × 59 providers = $278,173.20).

188. Because we are adopting location-based routing requirements for RTT communications to 911, we also consider the costs for CMRS providers. Given that CMRS providers process and route RTT communications to 911 similarly to voice calls, we assume that CMRS providers' material and labor costs to deploy location-based routing for RTT are included in our cost estimates above. As part of this analysis, we note that as of the release date of the Report and Order, we are aware of only a small number of PSAPs that are receiving RTT communications.

189. In sum, we estimate upper bounds of the costs that CMRS providers will bear to be material costs of $143.7 million, network implementation costs of $71.1 million, GIS costs of $134,000, and certification costs of $280,000. Altogether, the upper bound of costs is approximately $215 million. We note that the three major CMRS providers (AT&T, T-Mobile, and Verizon) have already implemented location-based routing for wireless 911 voice calls nationwide, or are in the process of implementing it. Although some commenters argue that this progress by three major carriers will not necessarily translate into reduced costs and greater efficiency for smaller providers to implement location-based routing, it appears that this progress by larger providers may have at least some measure of positive impact on implementation by smaller providers, such as by demonstrating potential implementation technologies and strategies, although they may be required to hire professionals to fulfill their compliance obligations.

190. The important public safety benefits that will result from the requirements the Commission adopted outweigh the associated implementation and compliance burdens for CMRS providers. The rule changes to implement nationwide location-based routing will significantly decrease misrouted wireless 911 calls and RTT communications to 911, reduce emergency response time, save lives, and save many PSAP personnel hours and resources lost in 911 transfers. Accordingly, these rule changes serve the public interest.

D. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

191. The RFA requires an agency to provide ''a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.''

192. In the previous section we described the significant public safety benefits to be achieved from requiring all CMRS providers to implement location-based routing for wireless 911 voice calls and RTT messages originating on IP-based networks on a nationwide basis. From the record in this proceeding, it appears to be technologically feasible for CMRS providers to implement location-based routing for a significant percentage of wireless 911 voice calls and RTT messages. In the Report and Order we expressly found that it is technologically feasible for all CMRS providers, nationwide and non-nationwide, to support location-based routing for a significant percentage of wireless 911 voice calls. The Commission considered comments advocating for a voluntary location-based routing approach to allow providers the flexibility which would take into account the differences in providers' networks, configurations and devices. We found, however, that implementing location-based routing on a voluntary basis is not consistent with the Commission's goal of ensuring that location-based routing is available to all wireless 911 callers on a nationwide basis. Accordingly, the rules we adopt require both nationwide and non-nationwide CMRS providers to implement location-based routing consistent with the proposals in the *NPRM.*

193. The Commission also considered a per-PSAP approach to implement location-based routing but determined that there could be uneven and inconsistent implementation in routing approaches between jurisdictions, and there was also a risk of 911 misroutes for jurisdictions that do not request location-based routing service. The Commission found that a per-PSAP approach was not consistent with its interest in facilitating improved routing of 911 voice calls, and was not in the public interest. Additionally, we determined this approach would impose unnecessary cost burdens on PSAPs to affirmatively request such service. The rules we adopted in the Report and Order were intended to be cost effective and minimally burdensome for small and other entities impacted by the rules. Below we discuss the specific steps the Commission has taken to minimize costs and reduce the economic impact for small entities, as well as various alternatives considered.

194. Location-Based Routing Requirements. Consistent with the Commission's proposal in the *NPRM* and to reduce potential cost burdens for small and other wireless providers, our location-based routing rules apply only to wireless 911 voice calls and RTT communications originating on IP-based networks (*i.e.,* 4G LTE, 5G, and subsequent generations of IP-based networks). The record indicated that while nationwide CMRS providers are in the process of retiring or have completed the retirement of circuit-

switched, time-division multiplex (TDM) 2G and 3G networks, and some non-nationwide providers announced dates to sunset their 3G networks in 2022, the transition from these networks that are less compatible with location-based routing has not been fully completed. In the *NPRM,* the Commission tentatively concluded that requiring location-based routing for 911 calls or texts originating on TDM-based networks would be unduly burdensome, especially for non-nationwide providers who would bear the greatest burden, even if given additional time to comply with such a requirement. Moreover, although the Commission considered requiring location-based routing for all 911 calls, the Commission in the *NPRM* ultimately proposed to require location-based routing only for 911 calls originating on IP-based networks, *i.e.,* 4G LTE, 5G, and subsequently deployed IP-based networks. In the Report and Order, the Commission adopted the proposed rule which will minimize some burdens and economic impact for small entities, particularly those that are non-nationwide providers, due to the limited scope of the requirement.

195. Rather than imposing a rigid location-based routing requirement, the rules the Commission adopted provide flexibility to small and other entities to route wireless 911 voice calls or RTT communications based on the best available location information (which may include cell tower coordinates or other information) when the location information available at time of routing does not meet either one or both of the rules' requirements for accuracy and timeliness. The Commission recognized the continued need for legacy E911 routing, at least as a fallback method, because accurate device location information is not available in all scenarios. Further, the Commission's requirement to default to best available location is consistent with the *ATIS–0500039* standard for location-based routing, which assumes that the fallback for location-based routing should be cell-sector routing for cases where no position estimate is available in time to be used for location-based routing, or the position estimates lack requisite accuracy. Our requirement is also consistent with current CMRS provider deployments of location-based routing, which default to legacy E911 routing when location does not meet CMRS providers' standards of accuracy and timeliness.

196. The Report and Order also adopted baseline requirements involving the accuracy and timeliness of location information used for location-based routing that are consistent with industry standards. Under the rules adopted, CMRS providers must use location-based routing only if the location information is available to the provider network at the time the wireless 911 voice call or RTT communication is routed, and the information identifies the caller's horizontal location with a radius of 165 meters at a confidence level of at least 90%. These metrics are consistent with AT&T's successful nationwide implementation of location-based routing, and received support as a model for other wireless carriers to implement location-based routing. In addition, the rule's confidence metric is consistent with ATIS's recommendation that uncertainty values for location-based routing ''be standardized to a 90% confidence for effective call handling.'' When location information does not meet the baseline accuracy and timeliness requirements, the adopted requirements allow CMRS providers to instead route based on best available location information, which may include device-based location information that does not meet the accuracy threshold, the centroid of the area served by the cell sector that first picks up the call, or other location information. This will help to minimize any significant economic impact on small entities and other CMRS providers.

197. Compliance Timelines. The rules adopted in the Report and Order provide small and other providers flexibility in the compliance timelines to implement the location-based routing requirements, which should reduce the economic burden for small entities. The compliance timelines differ from those the Commission proposed in the *NPRM,* which provided different deadlines for nationwide CMRS providers and non-nationwide CMRS providers to implement location-based routing on their IP-based networks when available location information meets requirements for accuracy and timeliness. To further reduce the burden on small entities in the rules adopted, the Commission granted longer compliance timelines to non-nationwide CMRS providers than those proposed in the *NPRM* and eliminated the requirements for covered text providers that are not CMRS providers. Specifically, non-nationwide CMRS providers (which includes a substantial number of small entities) are required to implement location-based routing for wireless 911 voice calls within 24 months from the effective date of the final rules, rather than 18 months as proposed in the *NPRM.* Nationwide CMRS providers are required to implement location-based routing for wireless 911 voice calls within six months from the effective date of the final rules. For RTT, all CMRS providers are required to implement location-based routing for RTT messages where they implement RTT capability within 24 months from the effective date of the final rules, rather than the 12 months proposed in the *NPRM.*

198. The Commission has also minimized any significant economic impact on small entities by limiting the requirement to implement location-based routing to operators of IP-based networks only when certain requirements are met. Small entities are not required to comply with the location-based routing requirement if they do not operate an IP-based network, or if the location information available on the IP-based network does not meet either one or both of the requirements for timeliness and accuracy, in which case, small entities may use the best available location information for routing. Small entities will further benefit from the Commission's adoption of provisions that allow PSAPs and CMRS providers to enter into agreements that establish an alternate timeframe for meeting the location-based routing requirements. The flexibility to negotiate an alternative timeframe that meets a CMRS provider's business and financial needs is a significant step by the Commission that could minimize the economic impact for small entities.

199. Reporting and Certification Requirements. The Commission considered the level of data collection, reporting, and certification, if any, that should be required from CMRS providers on location-based routing issues, weighing the potential burden of such requirements on small and other entities against the need to ensure compliance with the rules. The Commission also considered not adopting a certification requirement. However, absent a certification requirement, the Commission and the public would have no insight into providers' implementation of location-based routing. Furthermore, the Commission's ability to easily determine whether carriers are in compliance would be limited. Another alternative the Commission evaluated was adopting periodic reporting requirements. However, such ongoing reporting requirements have the potential to overburden providers, particularly small entities. Therefore, the rules adopted do not contain any periodic reporting requirements. We believe the one-time certification and

live call data reporting requirement we adopt will be sufficient for providers to demonstrate location-based routing implementation. This limited data collection best balances the need for transparency on compliance with the limited ability of some providers, particularly small entities, to respond to mandatory data collections. The adopted certification requirement will also help provide important privacy and security protections, which we believe greatly outweigh any minor burden that this requirement might impose on small or other entities.

200. Deferral of Certain Proposed Rules and Removal From This Rulemaking Proceeding. In the Report and Order, the Commission deferred taking action on certain rules that were proposed in the *NPRM.* Specifically, in the *NPRM* the Commission proposed requiring covered text providers to implement location-based routing for all 911 texts originating on their IP-based networks when location information meets certain accuracy and timeliness requirements. In the Report and Order we required CMRS providers to deploy and use location-based routing only for RTT communications. We deferred action on requiring covered text providers to deploy and use location-based routing for other types of text messages to 911, such as Short Message Service (SMS). The Commission also proposed requiring CMRS and covered text providers to deliver 911 calls, texts, and associated routing information in IP format upon request of 911 authorities that have established the capability to accept NG911-compatible IP-based 911 communications. To align requirements for NG911 services amongst providers and avoid confusion among stakeholders, we deferred consideration of CMRS and covered text provider NG911 IP delivery requirements to the pending NG911 transition proceeding in PS Docket No. 21–479. Our deferral of the two proposed requirements above eliminated consideration of these rules from the current rulemaking proceeding. By eliminating these rules from the proceeding, the Commission has reduced the compliance costs for small entities and any related implementation burdens small entities may have incurred.

E. Report to Congress

201. The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

V. Ordering Clauses

1. Accordingly, *it is ordered,* pursuant to sections 1, 2, 4(i), 10, 201, 214, 222, 251(e), 301, 302, 303, 307, 309, 316, and 332, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 160, 201, 214, 222, 251(e), 301, 302a, 303, 307, 309, 316, 332; the Wireless Communications and Public Safety Act of 1999, Public Law 106–81, 47 U.S.C. 615 note, 615, 615a, 615b; and section 106 of the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 47 U.S.C. 615c, that the Report and Order *is adopted.*

2. *It is further ordered* that the amendments to part 9 of the Commission's rules, as set forth in Appendix A of the Report and Order, *are adopted,* effective sixty (60) days after publication in the **Federal Register**. Compliance will not be required for § 9.10(s)(4) and (5) until after approval by the Office of Management and Budget. The Commission delegates authority to the Public Safety and Homeland Security Bureau to publish a document in the **Federal Register** announcing that compliance date and revising § 9.10(s)(6).

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

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

List of Subjects in 47 CFR Part 9

Communications, Communications common carriers, Communications equipment, Internet, Radio, Reporting and recordkeeping requirements, Satellites, Security measures, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 9 as follows:

PART 9—911 REQUIREMENTS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 47 U.S.C. 151–154, 152(a), 155(c), 157, 160, 201, 202, 208, 210, 214, 218, 219, 222, 225, 251(e), 255, 301, 302, 303, 307, 308, 309, 310, 316, 319, 332, 403, 405, 605, 610, 615, 615 note, 615a, 615b, 615c, 615a–1, 616, 620, 621, 623, 623 note, 721, and 1471, and Section 902 of Title IX, Division FF, Pub. L. 116–260, 134 Stat. 1182, unless otherwise noted.

■ 2. Amend § 9.3 by adding definitions for ''Device-based location information'' and ''Location-based routing'' in alphabetical order to read as follows:

§ 9.3 Definitions.

* * * * *

Device-based location information. Information regarding the location of a device used to call or text 911 generated all or in part from on-device sensors and data sources.

* * * * *

Location-based routing. The use of information regarding the location of a device, including but not limited to device-based location information, to deliver 911 calls and real-time text communications to point(s) designated by the authorized local or state entity to receive wireless 911 voice calls and real-time text communications to 911, such as an Emergency Services internet Protocol Network (ESInet) or PSAP, or to an appropriate local emergency authority.

* * * * *

■ 3. Amend § 9.10 by revising paragraph (a) introductory text and adding paragraph (s) to read as follows:

§ 9.10 911 Service.

(a) *Scope of this section.* Except as described in paragraph (r) of this section, the following requirements of paragraphs (a) through (s) of this section are only applicable to CMRS providers, excluding mobile satellite service (MSS) operators, to the extent that they:

* * * * *

(s) *Location-based routing requirements*—(1) *Wireless 911 voice calls.* (i) By November 13, 2024, nationwide CMRS providers must deploy a technology that supports location-based routing for wireless 911 voice calls on their internet Protocol-based networks (4G LTE, 5G, and subsequent generations of internet Protocol-based networks) nationwide. At that time, nationwide CMRS providers must route all wireless 911 voice calls originating on their internet Protocol-based networks pursuant to the requirements of paragraph (s)(3) of this section.

(ii) By May 13, 2026, non-nationwide CMRS providers must deploy a technology that supports location-based routing for wireless 911 voice calls on their internet Protocol-based networks (4G LTE, 5G, and subsequent generations of internet Protocol-based networks). At that time, non-nationwide CMRS providers must route all wireless 911 voice calls originating on their internet Protocol-based networks pursuant to the requirements of paragraph (s)(3) of this section.

(2) *Real-time text communications to 911.* By May 13, 2026, CMRS providers must deploy a technology that supports location-based routing for real-time text communications to 911 originating on their internet-Protocol-based networks (4G LTE, 5G, and subsequent generations of internet Protocol-based networks). At that time, CMRS providers must route all real-time text communications to 911 originating on their internet Protocol-based networks pursuant to the requirements of paragraph (s)(3) of this section.

(3) *Timeliness and accuracy threshold.* (i) Notwithstanding requirements for confidence and uncertainty described in paragraph (j) of this section, CMRS providers must use location information that meets the following specifications for routing wireless 911 voice calls and real-time text communications to 911 under paragraphs (s)(1) and (2) of this section:

(A) The location information reports the horizontal location uncertainty level of the device within a radius of 165 meters at a confidence level of at least 90%; and

(B) The location information is available to the CMRS provider network at the time of routing the wireless 911 voice call or real-time text communication to 911.

(ii) When the location information does not meet either one or both of the requirements in paragraphs (s)(3)(i)(A) and (B) of this section, CMRS providers must route the wireless 911 voice call or real-time text communication to 911 based on the best available location information, which may include but is not limited to device-based location information that does not meet the requirements in paragraphs (s)(3)(i)(A) and (B), the centroid of the area served by the cell sector that first picks up the call, or other location information.

(4) *Certification and reporting.* Within 60 days after each benchmark specified in paragraphs (s)(1)(i) and (ii) and (s)(2) of this section, CMRS providers must comply with the following certification and reporting requirements.

(i) CMRS providers must:

(A) Certify that they are in compliance with the requirements specified in paragraphs (s)(1)(i) and (ii) and (s)(2) of this section applicable to them;

(B) Identify specific network architecture, systems, and procedures used to comply with paragraphs (s)(1)(i) and (ii) and (s)(2) of this section, including the extent to which the CMRS provider validates location information for routing purposes and the validation practices used in connection with this information; and

(C) Certify that neither they nor any third party they rely on to obtain location information or associated data used for compliance with paragraph (s)(1)(i) or (ii) or (s)(2) of this section will use such location information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law. The certification must state that the CMRS provider and any third parties it relies on to obtain location information or associated data used for compliance with paragraph (s)(1)(i) or (ii) or (s)(2) have implemented measures sufficient to safeguard the privacy and security of such location information or associated data.

(ii) CMRS providers also must:

(A) Collect and report aggregate data on the routing technologies used for all live wireless 911 voice calls in the locations specified for live 911 call location data in paragraph (i)(3)(ii) of this section for a thirty-day period which begins on the compliance date(s) specified in paragraphs (s)(1)(i) and (ii) of this section. CMRS providers must retain live wireless 911 voice call data gathered pursuant to this section for a period of 2 years. CMRS providers must collect and report the following data, expressed as both a number and percentage of the total number of live wireless 911 voice calls for which data is collected pursuant to this section:

(*1*) Live wireless 911 voice calls routed with location-based routing using location information that meets the timeliness and accuracy thresholds defined in paragraphs (s)(3)(i)(A) and (B) of this section;

(*2*) Live wireless 911 voice calls routed with location-based routing using location information that does not meet the timeliness or accuracy thresholds defined in paragraphs (s)(3)(i)(A) and (B) of this section; and

(*3*) Live wireless 911 voice calls routed using tower-based routing.

(5) *Modification of deadlines by agreement.* Nothing in this section shall prevent PSAPs and CMRS providers from establishing, by mutual consent, deadlines different from those established for CMRS provider compliance in paragraphs (s)(1)(i) and (ii) and (s)(2) of this section. The CMRS provider must notify the Commission of the dates and terms of the alternate time frame within 30 days of the parties' agreement or June 11, 2024, whichever is later. The CMRS provider must subsequently notify the Commission of the actual date by which it comes into compliance with the location-based routing requirements in paragraph (s)(1)(i) or (ii) or (s)(2) within 30 days of that date or June 11, 2024, whichever is later. CMRS providers must file such notifications pursuant to this paragraph (s)(5) in PS Docket No. 18–64. The parties may not use this paragraph (s)(5) to delay compliance with paragraph (s)(1)(i) or (ii) or (s)(2) of this section indefinitely.

(6) *Compliance dates.* Paragraphs (s)(4) and (5) of this section contain information collection and recordkeeping requirements. Compliance with paragraphs (s)(4) and (5) will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing that compliance date and revising or removing this paragraph (s)(6) accordingly.

[FR Doc. 2024–03157 Filed 3–8–24; 4:15 pm]

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FEDERAL REGISTER

Vol. 89 Wednesday,

No. 50 March 13, 2024

Part III

The President

Notice of March 12, 2024—Continuation of the National Emergency With Respect to Iran

Federal Register
Vol. 89, No. 50
Wednesday, March 13, 2024

Presidential Documents

Title 3—

The President

Notice of March 12, 2024

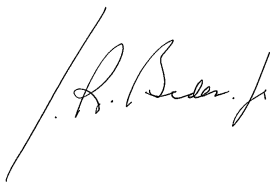
Continuation of the National Emergency With Respect to Iran

On March 15, 1995, by Executive Order 12957, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran. On May 6, 1995, the President issued Executive Order 12959, imposing more comprehensive sanctions on Iran to further respond to this threat. On August 19, 1997, the President issued Executive Order 13059, consolidating and clarifying those previous orders. The President took additional steps pursuant to this national emergency in Executive Order 13553 of September 28, 2010; Executive Order 13574 of May 23, 2011; Executive Order 13590 of November 20, 2011; Executive Order 13599 of February 5, 2012; Executive Order 13606 of April 22, 2012; Executive Order 13608 of May 1, 2012; Executive Order 13622 of July 30, 2012; Executive Order 13628 of October 9, 2012; Executive Order 13645 of June 3, 2013; Executive Order 13716 of January 16, 2016, which revoked Executive Orders 13574, 13590, 13622, 13645, and provisions of Executive Order 13628; Executive Order 13846 of August 6, 2018, which revoked Executive Orders 13716 and 13628; Executive Order 13871 of May 8, 2019; Executive Order 13876 of June 24, 2019; Executive Order 13902 of January 10, 2020; and Executive Order 13949 of September 21, 2020.

The actions and policies of the Government of Iran—including its proliferation and development of missiles and other asymmetric and conventional weapons capabilities, its network and campaign of regional aggression, its support for terrorist groups, and the malign activities of the Islamic Revolutionary Guard Corps and its surrogates—continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

For these reasons, the national emergency declared on March 15, 1995, must continue in effect beyond March 15, 2024. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Iran declared in Executive Order 12957. The emergency declared by Executive Order 12957 constitutes an emergency separate from that declared on November 14, 1979, by Executive Order 12170, in connection with the hostage crisis. This renewal, therefore, is distinct from the emergency renewal of November 7, 2023.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
March 12, 2024.

[FR Doc. 2024–05568
Filed 3–12–24; 12:15 pm]
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