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Presidential Documents

Title 3—

The President

Proclamation 10209 of May 14, 2021

Revoking Proclamation 9945

By the President of the United States of America

A Proclamation

The suspension of entry imposed in Proclamation 9945 of October 4, 2019 (Suspension of Entry of Immigrants Who Will Financially Burden the United States Healthcare System, in Order To Protect the Availability of Healthcare Benefits for Americans), does not advance the interests of the United States. My Administration is committed to expanding access to quality, affordable healthcare. We can achieve that objective, however, without barring the entry of noncitizens who seek to immigrate lawfully to this country but who lack significant financial means or have not purchased health insurance coverage from a restrictive list of qualifying plans. The suspension of entry imposed in Proclamation 9945 is also in tension with the policy set forth in section 1 of Executive Order 14012 of February 2, 2021 (Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans).

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(f) and 1185(a), hereby find that the unrestricted entry into the United States of noncitizen immigrants based solely on the reasons articulated in Proclamation 9945 is not detrimental to the interests of the United States. I therefore hereby proclaim the following:

Section 1. *Revocation.* Proclamation 9945 is revoked.

Sec. 2. *Review of Agency Actions.* The Secretary of State, the Secretary of Health and Human Services, and the Secretary of Homeland Security shall review any regulations, orders, guidance documents, policies, and any other similar agency actions developed pursuant to Proclamation 9945 and, as appropriate, issue revised guidance consistent with the policy set forth in this proclamation.

Sec. 3. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

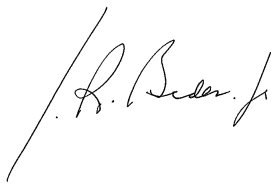
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

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



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Presidential Documents

Proclamation 10210 of May 14, 2021

Armed Forces Day, 2021

By the President of the United States of America

A Proclamation

On Armed Forces Day, we honor and offer our profound appreciation and gratitude to the patriots who are serving in our Nation's Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard. Their professionalism and unwavering dedication to supporting and defending our Constitution has been vital in allowing our democracy to flourish, safeguarding peace and growing prosperity for our citizens, and giving hope to oppressed peoples or those facing tyranny abroad. Less than one percent of Americans serve on active duty in the Armed Forces. Those who do volunteer to put their lives on the line to protect our country and democracy wherever they are called to serve. Whether they are Active Duty, National Guard, or in the Reserve, they are true American heroes, and we all owe them.

Our military members do not swear allegiance to an individual, group, or political party. Their oath is to the United States Constitution. By bringing together people from different races, religions, and sexual orientations and melding them into a cohesive fighting force, our military embodies the promise of our democratic experiment. My Administration is determined to foster an environment that empowers our Armed Forces and improves retention and promotion of the best talent, to strengthen military readiness. Any ideology, actions, or influences that seek to undermine this solidarity must be exposed and eliminated.

The unmatched strength of the United States Armed Forces reflects our greatest strength as a people, our diversity. Our military has proven—time and time again—that the insistent pursuit of greater inclusion and equality makes us a more robust, more resilient, and more powerful Nation. As we pay tribute to those who serve, we acknowledge our continuing obligation to ensure that all qualified and willing Americans who wish to serve in the United States Armed Forces are able to do so openly and free from discrimination.

My Administration is committed to confronting and driving out sexual assault and harassment, so that all members of the Armed Services feel safe and welcome in the ranks. We will improve retention and promotion of our best talent by using a single standard, one based on excellence.

The Biden family knows personally that the burden of service does not fall solely on those who wear a uniform. Our military family members also serve our country and make great sacrifices to support their loved ones. They give their best to their service members, and we must give our best to ensuring military families have what they need to thrive. This is a national security imperative that supports military retention and readiness, and my Administration is committed to supporting policies that promote the well-being of our war fighters and their families.

Through the First Lady's work with Joining Forces, the White House has committed to supporting military and veteran families, caregivers, and survivors through economic and entrepreneurship opportunities, support for military child education, and health and well-being resources. Joining Forces will continue to convene and collaborate with Federal agency partners, non-profit organizations, corporate stakeholders, and service providers to

develop comprehensive, meaningful, and long-term solutions to address the holistic well-being of military and veteran families, caregivers, and survivors.

The United States Armed Forces are the greatest fighting force in the history of the world. They defend universal values and advance the cause of freedom around the globe. On this day, we salute and show gratitude for all who serve and commit to ensuring our Armed Forces remain strong, united, and unmatched.

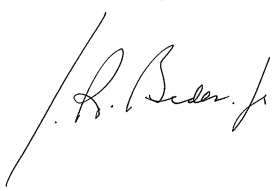
NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, and Commander in Chief of the Armed Forces of the United States, continuing the precedent of my predecessors in office, do hereby proclaim the third Saturday of each May as Armed Forces Day.

I direct the Secretary of Defense on behalf of the Army, Navy, Air Force, Marine Corps, Space Force, and the Secretary of Homeland Security on behalf of the Coast Guard, to plan for appropriate observances each year, with the Secretary of Defense responsible for soliciting the participation and cooperation of civil authorities and private citizens. I invite the Governors of the States, the Commonwealth of Puerto Rico, and other areas subject to the jurisdiction of the United States, to provide for the observance of Armed Forces Day within their jurisdiction each year in an appropriate manner designed to increase public understanding and appreciation of the Armed Forces of the United States. I also invite veterans, civic leaders, and other organizations to join in the observance of Armed Forces Day each year.

Finally, I call upon all Americans to display the flag of the United States at their homes and businesses on Armed Forces Day, and I urge citizens to learn more about military service by attending and participating in the local observances of the day.

Proclamation 10034 of May 15, 2020, is hereby superseded.

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



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Presidential Documents

Proclamation 10211 of May 14, 2021

Emergency Medical Services Week, 2021

By the President of the United States of America

A Proclamation

Every day, in communities across the country, Emergency Medical Service (EMS) providers put themselves on the line to save lives, safeguard dangerous situations, and deliver hope to families and communities in crisis. With selflessness, professionalism, and grace under fire, they provide essential care—never more so than during our battle with COVID–19 over the past year. This year's Emergency Medical Services Week theme, ''THIS IS EMS: Caring for Our Communities,'' honors our heroic frontline workers who provide vital emergency medical care and ease the burden of crisis for Americans in need of help.

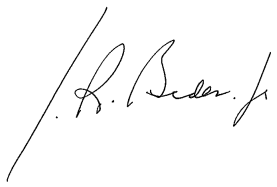
Through service, compassion, and dedication, EMS providers represent the very best of the American spirit. In the face of unprecedented challenges, their expertise, endurance, and hard work have been a literal lifeline for families in every community. Whether responding to the enormous suffering caused by COVID–19, the devastation of extreme climate events, or daily medical emergencies, EMS providers—many of whom are volunteers—prepare, sacrifice, and put others ahead of themselves. Not only do they assume the heightened risks associated with emergency care during a pandemic, but they also spend countless hours away from families and friends in order to serve their communities.

In the face of these challenges, EMS providers have not hesitated to take on new roles, including supporting COVID–19 testing, therapeutics, and vaccination sites. To help support the women and men who do this vital work, my American Rescue Plan included $100 million to support the mental well-being—including the mental health—of our health care professionals, paraprofessionals, public safety officers, and EMS providers. My Administration has also made it a priority to ensure that our State, local, Tribal, and territorial partners have the resources they need so that EMS providers are trained and equipped to respond to public health emergencies safely and effectively, now and in the future.

During Emergency Medical Services Week, we extend our deepest gratitude to all EMS providers. Their courage, selflessness, and commitment are extraordinary examples of what it means to serve this great country. We also extend our sincere condolences to the loved ones of EMS providers who have given their lives in the line of duty. This week and every week, I urge all Americans to express their appreciation for our Nation's EMS providers—and to bring greater safety to their lives, and to all of our lives, by getting vaccinated to help bring an end to the COVID–19 pandemic.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 16 through May 22, 2021, as Emergency Medical Services Week. I call upon public officials, doctors, nurses, paramedics, Emergency Medical Service providers, and all the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

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



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Presidential Documents

Proclamation 10212 of May 14, 2021

National Defense Transportation Day and National Transportation Week, 2021

By the President of the United States of America

A Proclamation

Since our Nation's founding, our transportation infrastructure has enabled our economic growth and enhanced our national security. From the American merchant ships that carried supplies to support military operations during the Revolutionary War, to the Erie Canal opening the Midwest and West for growth, to the transcontinental railroad linking our Nation after the Civil War; to the interstate highway system transforming the way we travel, live, and work, our transportation infrastructure has supported national defense and powered interstate commerce. On National Defense Transportation Day and during National Transportation Week, we take time to recognize the transformational role infrastructure has played throughout our history, and reflect on the work and investment required to build an even stronger, more sustainable, and more equitable transportation system of the future.

America's transportation system has always proven vital for civilian and military organizations, something we have seen demonstrated in our Nation's response to the COVID–19 pandemic. Dedicated workers, using a comprehensive transportation plan, including airports, highways, railroads, waterways, and public transit, enabled the Federal Government to distribute tens of millions of COVID–19 vaccines and helped us deliver over 200 million shots in my first 100 days as President.

Even as we recognize the essential nature of our transportation system, we must recognize that the system was built in a way that harmed vulnerable communities, does not provide equal services to all people, creates harmful local pollution, and contributes to climate change. We also must address the fact that decades of disinvestment and neglect have caused our roads, bridges and water systems to fall into disrepair.

A disproportionate number of infrastructure needs occur in underserved or underrepresented communities where people depend upon transportation systems for work and daily activities. The lack of affordable transportation options means lack of access to good-paying jobs, education, and health care. Modern and resilient infrastructure supporting reliable and affordable transportation options make the American Dream possible for all of us, regardless of geography, race, disability, or economic status.

For all of these reasons, I have proposed an American Jobs Plan that will modernize 20,000 miles of highways, roads, and main streets, fix the Nation's 10 most economically significant bridges in America in need of replacement, and repair 10,000 bridges desperately in need of upgrades to unclog traffic, keep people safe, and connect our cities, towns, and Tribes across the country. It will build back a better transportation system—one that is resilient to floods, fires, and storms, and provides equitable, affordable access to opportunity for all Americans.

The American Jobs Plan will replace buses and rail cars, build new rail corridors and transit lines—easing congestion, cutting pollution, slashing commute times, and opening up investment in communities that can be connected to city centers. It will reduce the bottlenecks of commerce at

our ports and airports. The plan will also create good-quality jobs paying prevailing wages in safe and healthy workplaces while ensuring workers have a free and fair choice to organize, join a union, and bargain collectively with their employers.

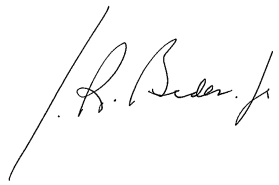
As our Nation recovers from the COVID–19 pandemic and the economic destruction it caused, we have a chance to build back better by focusing on infrastructure that reconnects communities, provides equitable access to transportation services, and mitigates the devastating effects of climate change.

This month we recognize the dedicated men and women who kept this Nation moving during the depths of a global pandemic: The truckers who delivered groceries to empty store shelves; the airline crews who flew medical workers to COVID–19 hotspots; the United States military members who remained on the front lines to distribute and administer vaccines in record time; and the transportation workers who kept our systems running as economies shut down. We thank you for serving the American people and the traveling public.

In recognition of the ongoing contributions of our Nation's transportation system and in honor of the devoted professionals who work to sustain its tradition of excellence, the United States Congress has requested, by joint resolution approved May 16, 1957, as amended (36 U.S.C. 120), that the President designate the third Friday in May of each year as ''National Defense Transportation Day'' and, by joint resolution approved May 14, 1962 (36 U.S.C. 133), that the week in which that Friday falls be designated as ''National Transportation Week.''

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim Friday, May 21, 2021, as National Defense Transportation Day and May 16 through May 22, 2021, as National Transportation Week. I urge all Americans to observe these occasions with appropriate ceremonies, programs, and activities as we show our appreciation to those who build and operate our Nation's transportation systems.

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



[FR Doc. 2021–10689

Filed 5–18–21; 8:45 am]

Billing code 3295–F1–P

Presidential Documents

Proclamation 10213 of May 14, 2021

World Trade Week, 2021

By the President of the United States of America

A Proclamation

When the COVID–19 pandemic struck, it not only inflicted an enormous toll on American lives and livelihoods—it brought unprecedented disruption to the global economy as well. That disruption represents a major threat to workers and employers in every community who rely on trade to grow jobs here at home, from small businesses that sell their goods to customers overseas, to major United States industries that depend on imported components in the products they make in America. As we work to defeat the pandemic and build back better, World Trade Week reminds us of the important role that global trade plays in creating jobs and strengthening the United States economy—and of our responsibility to pursue trade policies that center on American workers.

The United States can out-compete any country in the world. We have all the skills and strengths that we need to win the competition for the future, including a fiercely innovative and productive workforce. And if we make the smart investments to hone our competitive edge, no nation will be able to match us. That is why my Administration is not only focused on creating millions of good-paying jobs here at home, and supporting America's working families, we are committed to making the single biggest investment in American innovation and competitiveness since World War II. Through the American Jobs Plan and the American Families Plan, we will be taking on four major challenges to fortify our foundation: strengthening our industrial and innovation base to ensure that the future is made in America; investing in sustainable infrastructure and laying the foundation for a clean energy future; investing in our caring economy to ease the burden of care on working families; and advancing racial equity across the board to ensure that Americans in every community see the benefits of a revitalized economy and United States leadership on the world economic stage.

To support those efforts, we are committed to strengthening existing trade policies—and developing new ones aimed toward promoting equitable growth, protecting workers' rights, and advancing environmental justice. We are also holding our trade partners accountable and ensuring that they do not gain competitive advantages by violating workers' rights or engaging in unfair trade practices.

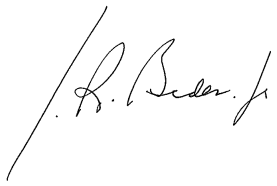
Enforcing our Nation's trade rules and ensuring a level playing field is critical to making trade work for American workers and businesses. The United States is working bilaterally and multilaterally with our partners to develop standards that support workers, reduce export barriers, and hold accountable those who abuse and exploit the global trading system. We are working with international organizations to implement reforms and address current challenges, including economic, racial, and social inequities, as well as the climate crisis.

If we invest in America, and if we make sure that the United States and our partners write the rules of the road when it comes to global trade, then American factory workers, retail workers, farmers, ranchers, and fishers in every community will have a better chance to earn their place in the

middle class and live lives of greater opportunity. We will be more competitive around the world—and stronger, more prosperous, and more resilient here at home.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 16 through May 22, 2021, as World Trade Week. I call upon all Americans to observe this week and to celebrate with appropriate programs, ceremonies, and activities.

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



[FR Doc. 2021–10690
Filed 5–18–21; 8:45 am]
Billing code 3295–F1–P

Presidential Documents

Executive Order 14029 of May 14, 2021

Revocation of Certain Presidential Actions and Technical Amendment

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, it is hereby ordered as follows:

Section 1. *Revocation of Presidential Actions*. The following Presidential actions are revoked: Executive Order 13925 of May 28, 2020 (Preventing Online Censorship), Executive Order 13933 of June 26, 2020 (Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence), Executive Order 13934 of July 3, 2020 (Building and Rebuilding Monuments to American Heroes), Executive Order 13964 of December 10, 2020 (Rebranding United States Foreign Assistance To Advance American Influence), Executive Order 13978 of January 18, 2021 (Building the National Garden of American Heroes), and Executive Order 13980 of January 18, 2021 (Protecting Americans From Overcriminalization Through Regulatory Reform).

Sec. 2. *Implementation*. The Director of the Office of Management and Budget and the heads of executive departments and agencies shall promptly consider taking steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the Presidential actions identified in section 1 of this order, as appropriate and consistent with applicable law, including the Administrative Procedure Act, 5 U.S.C. 551 *et seq*. In addition, any personnel positions, committees, task forces, or other entities established pursuant to the Presidential actions identified in section 1 of this order shall be abolished, as appropriate and consistent with applicable law.

Sec. 3. *Technical Amendment*. To enhance the efficiency of the civil service and to promote good administration and systematic application of merit system principles, Executive Order 14003 of January 22, 2021 (Protecting the Federal Workforce), revoked Executive Order 13957 of October 21, 2020 (Creating Schedule F in the Excepted Service), thereby eliminating Schedule F in the excepted service. In order to update the civil service rules to reflect the action taken in Executive Order 14003, Civil Service Rule VI is amended as follows:

(a) 5 CFR 6.2 is amended to read:

OPM shall list positions that it excepts from the competitive service in Schedules A, B, C, and D, and it shall list the position of administrative law judge in Schedule E, which schedules shall constitute parts of this rule, as follows:

Schedule A. Positions other than those of a confidential or policy-determining character for which it is not practicable to examine shall be listed in Schedule A.

Schedule B. Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination shall be listed in Schedule B. Appointments to these positions shall be subject to such noncompetitive examination as may be prescribed by OPM.

Schedule C. Positions of a confidential or policy-determining character shall be listed in Schedule C.

Schedule D. Positions other than those of a confidential or policy-determining character for which the competitive service requirements make impracticable the adequate recruitment of sufficient numbers of students attending qualifying educational institutions or individuals who have recently completed qualifying educational programs shall be listed in Schedule D. These positions are temporarily placed in the excepted service to enable more effective recruitment from all segments of society by using means of recruiting and assessing candidates that diverge from the rules generally applicable to the competitive service.

Schedule E. Positions of administrative law judge appointed under 5 U.S.C. 3105 shall be listed in Schedule E. Conditions of good administration warrant placing the position of administrative law judge in the excepted service and exempting appointment to this position from the requirements of 5 CFR, part 302, including examination and rating requirements, though each agency shall follow the principle of veteran preference as far as administratively feasible.

(b) 5 CFR 6.4 is amended to read:

''Except as required by statute, the Civil Service Rules and Regulations shall not apply to removals from positions listed in Schedules A, C, D, or E, or from positions excepted from the competitive service by statute. The Civil Service Rules and Regulations shall apply to removals from positions listed in Schedule B of persons who have competitive status.''

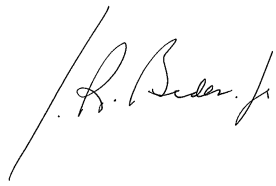
Sec. 4. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
May 14, 2021.

[FR Doc. 2021–10691
Filed 5–18–21; 8:45 am]
Billing code 3295–F1–P

Rules and Regulations

Federal Register
Vol. 86, No. 95
Wednesday, May 19, 2021

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

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

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

RIN 1615–AC13

[CIS No. 2658–20 DHS Docket No. USCIS–2020–0018]

Strengthening the H–1B Nonimmigrant Visa Classification Program, Implementation of Vacatur

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This final rule removes from the Code of Federal Regulations an interim final rule (IFR) issued in October 2020, which has since been vacated by a federal district court.

DATES: This rule is effective May 19, 2021.

FOR FURTHER INFORMATION CONTACT: Charles L. Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Drive, Mail Stop 2090, Camp Springs, MD 20588–0009. Telephone Number (240) 721–3000 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Background and Basis for Removal of Regulations

On October 8, 2020, the Department of Homeland Security (DHS) issued an Interim Final Rule (IFR) titled, *Strengthening the H–1B Nonimmigrant Visa Classification Program.*[1] On December 1, 2020, the U.S. District Court for the Northern District of California vacated the IFR.[2] The Department announced on December 4, 2020, that it would fully comply with the court's decision vacating the October 2020 IFR; however, changes to the regulatory text as set forth in the IFR are still reflected in the Code of Federal Regulations (CFR) at 8 CFR 214.2.

This rule removes from the CFR the regulatory text that the Department promulgated in the October 2020 IFR and restores the regulatory text to appear as it did before the October 2020 IFR, and consistent with the rules that remain valid subsequent to the court's vacatur.

DHS is not required to provide notice and comment or delay the effective date of this rule because this rule simply implements the court's vacatur of the IFR and restores the regulatory text so that it correctly reflects the regulatory text that predates the vacatur and remains valid. The changes made by the IFR do not have any legal effect. Moreover, good cause exists here for bypassing any otherwise applicable requirements of notice and comment and a delayed effective date. Notice and comment and a delayed effective date are unnecessary for the implementation of the court's order vacating the rule and would be impracticable and contrary to the public interest in light of the agency's immediate need to implement the final judgment. *See* 5 U.S.C. 553(b)(B), (d). DHS believes that delaying the ministerial act of restoring the regulatory text in the **Federal Register** is contrary to the public interest because it could lead to confusion, particularly among the regulated public, as to the eligibility requirements for the H–1B classification. DHS has concluded that each of those three reasons—that notice and comment and a delayed effective date are unnecessary, impracticable, and contrary to the public interest—independently provides good cause to bypass any otherwise applicable requirements of notice and comment and a delayed effective date.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

Accordingly, for the reasons set forth in the preamble, DHS amends chapter I of title 8 of the Code of Federal Regulations as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 8 CFR part 2.

■ 2. Amend § 214.2 by:
■ a. Revising paragraph (h)(2)(i)(B);
■ b. Removing paragraph (h)(4)(i)(B)(*7*);
■ c. In paragraph (h)(4)(ii):
■ i. Removing the definition of ''Employer-employee relationship'';
■ ii. Revising the definition of ''Specialty Occupation'';
■ iii. Removing the definition of ''Third-party worksite'';
■ iv. Revising the definition of ''United States employer''; and
■ v. Removing the definition of ''Worksite.''
■ d. Revising paragraph (h)(4)(iii)(A);
■ e. Removing paragraph (h)(4)(iv)(C);
■ f. Amending paragraph (h)(9) by:
■ i. Redesignating paragraph (h)(9)(i)(A) as paragraph (h)(9)(i), and removing paragraph (h)(9)(i)(B), and
■ ii. Revising paragraph (h)(9)(iii)(A)(*1*); and
■ g. Removing and reserving paragraph (h)(24)(ii).

The revisions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *
(2) * * *
(i) * * *

(B) *Service or training in more than one location.* A petition that requires services to be performed or training to be received in more than one location must include an itinerary with the dates and locations of the services or training and must be filed with USCIS as provided in the form instructions. The address that the petitioner specifies as its location on the Form I–129 shall be where the petitioner is located for purposes of this paragraph.

(4) * * *
(i) * * *
(B) * * *
(ii) * * *

[1] 85 FR 63918 (Oct 8, 2020).

[2] *See JSW Chamber of Commerce of the United States of America et al.* v. *United States Department of Homeland Security, et al.*, No. 4:20–cv–07331 (N.D. Cal. Dec. 1, 2020).

Specialty occupation means an occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

* * * * *

United States employer means a person, firm, corporation, contractor, or other association or organization in the United States which:

(*1*) Engages a person to work within the United States;

(*2*) Has an employer-employee relationship with respect to employees under this part; as indicated by the fact that it may hire, pay, fire, supervise, or otherwise control the work of any such employee; and

(*3*) Has an Internal Revenue Service Tax identification number.

* * * * *

(iii) * * *

(A) *Standards for specialty occupation position.* To qualify as a specialty occupation, the position must meet one of the following criteria:

(1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;

(2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;

(3) The employer normally requires a degree or its equivalent for the position; or

(4) The nature of the specific duties are so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

* * * * *

(9) * * *

(iii) * * *

(A)(1) *H–1B petition in a specialty occupation.* An approved petition classified under section 101(a)(15)(H)(i)(b) of the Act for an alien in a specialty occupation shall be valid for a period of up to three years but may not exceed the validity period of the labor condition application.

* * * * *

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2021–10489 Filed 5–18–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0101; Project Identifier MCAI–2020–01084–T; Amendment 39–21531; AD 2021–09–17]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–100–1A10 airplanes. This AD was prompted by a report that the inboard multi-function spoiler (MFS) surfaces failed to deploy, which was caused by missing notches on the piston seal of the MFS power control units (PCUs). This AD requires an inspection to determine if affected MFS PCUs are installed, and replacement of affected MFS PCUs. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 23, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 23, 2021.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free phone: 1–866–538–1247 or direct-dial phone: 1–514–855–2999; email: *ac.yul@aero.bombardier.com;* internet: *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0101.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0101; 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, 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.

FOR FURTHER INFORMATION CONTACT: Siddeeq Bacchus, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7362; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2020–26, dated August 4, 2020 (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Bombardier, Inc., Model BD–100–1A10 airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0101.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD–100–1A10 airplanes. The NPRM published in the **Federal Register** on February 26, 2021 (86 FR 11667). The NPRM was prompted by a report that the inboard MFS surfaces failed to deploy, which was caused by missing notches on the piston seal of the MFS PCUs. The NPRM proposed to require an inspection to determine if affected MFS PCUs are installed, and replacement of affected MFS PCUs. The FAA is issuing this AD to address MFS PCUs with improperly configured piston seals, which could cause degraded proportional lift dumping (PLD) function. This condition could hinder the airplane from carrying out an emergency descent, resulting in structural damage and injury to occupants. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information. This service information describes procedures for an inspection to determine if affected MFS PCUs are installed, and replacement of affected MFS PCUs. These documents are distinct since they apply to different airplane configurations.

- Bombardier Service Bulletin 100–27–17, Revision 03, dated June 19, 2020.
- Bombardier Service Bulletin 350–27–010, dated June 19, 2020.

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 the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 630 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 19 work-hours × $85 per hour = Up to $1,615.	Up to $19,600 (up to 4 MFS PCUs per airplane).	Up to $21,215 (up to 4 MFS PCUs per airplane).	Up to $13,365,450 (up to 4 MFS PCUs per airplane).

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

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,

(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.

Adoption of 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:

2021–09–17 Bombardier, Inc.: Amendment 39–21531; Docket No. FAA–2021–0101; Project Identifier MCAI–2020–01084–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 23, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–100–1A10 airplanes, certificated in any category, serial numbers 20003 through 20457 inclusive, and 20501 through 22999 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by a report that the inboard multi-function spoiler (MFS) surfaces failed to deploy, which was caused by missing notches on the piston seal of the MFS power control units (PCUs). The FAA is issuing this AD to address MFS PCUs with improperly configured piston seals, which could cause degraded proportional lift dumping (PLD) function. This condition could hinder the airplane from carrying out an emergency descent, resulting in structural damage and injury to occupants.

(f) Compliance

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

(g) Definition of Affected Part

For the purpose of this AD, an affected MFS PCU is an MFS PCU that has a serial number of 0001 through 1410 inclusive, except for those MFS PCUs having the serial numbers listed in figure 1 to paragraph (g) of this AD and except for those with the suffix ''A'' at the end of the serial number (*i.e.,* serial number 1025A).

Figure 1 to paragraph (g): S*erial numbers that are not affected*

66	605	1287	1395
72	671	1334	1396
175	720	1337	1397
200	727	1368	1400
331	728	1369	1401
441	773	1370	1403
448	778	1373	1404
449	812	1376	1405
456	831	1380	1406
470	887	1382	1407
494	991	1385	1408
495	1049	1386	1409
498	1208	1387	-
499	1236	1388	-
561	1284	1394	-

(h) Required Actions

(1) Within 12 months after the effective date of this AD: Do an inspection to determine if affected MFS PCUs are installed on the airplane in accordance with Paragraph 2.B. of Bombardier Service Bulletin 100–27–17, Revision 03, dated June 19, 2020; or Bombardier Service Bulletin 350–27–010, dated June 19, 2020; as applicable. A review of airplane maintenance records is acceptable in lieu of this inspection if the serial number of the MFS PCU can be conclusively determined from that review.

(2) Within 12 months after the effective date of this AD: Replace any affected MFS PCUs with MFS PCUs that are not affected, in accordance with Paragraphs 2.C., 2.D., 2.E., and 2.F., as applicable, of Bombardier Service Bulletin 100–27–17, Revision 03, dated June 19, 2020; or Bombardier Service Bulletin 350–27–010, dated June 19, 2020; as applicable.

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install an affected MFS PCU, on any airplane.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; fax: 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2020–26, dated August 4, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0101.

(2) For more information about this AD, contact Siddeeq Bacchus, Aerospace

Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7362; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 100–27–17, Revision 03, dated June 19, 2020.

(ii) Bombardier Service Bulletin 350–27–010, dated June 19, 2020.

(3) For service information identified in this AD, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free phone: 1–866–538–1247 or direct-dial phone: 1–514–855–2999; email: *ac.yul@aero.bombardier.com;* internet: *https://www.bombardier.com.*

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on April 23, 2021.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–10467 Filed 5–18–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0973; Project Identifier MCAI–2020–01113–T; Amendment 39–21527; AD 2021–09–13]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directives (AD) 2000–23–04 R1 and AD 2018–20–14, which applied to certain ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes. AD 2000–23–04 R1 and AD 2018–20–14 required revising the maintenance or inspection program, as applicable, to incorporate new and/or more restrictive maintenance requirements and airworthiness limitations. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by the FAA's determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 23, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 23, 2021.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of November 20, 2018 (83 FR 52123, October 16, 2018).

ADDRESSES: For EASA material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* For ATR–GIE service information identified in this AD, contact ATR—GIE Avions de Transport Régional, 1 Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atraircraft.com; http://www.atr-aircraft.com.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0973.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching fMonday through Friday, except Federal holidays. The AD docket contains this final rule, 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.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *Shahram.Daneshmandi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0263, dated December 1, 2020 (EASA AD 2020–0263) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Model ATR 42–400 and ATR 42–500 airplanes. Model ATR 42–400 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after July 7, 2020 must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2000–23–04 R1, Amendment 39–12174 (66 FR 19381, April 16, 2001) (AD 2000–23–04 R1) and AD 2018–20–14, Amendment 39–19448 (83 FR 52123, October 16, 2018) (AD 2018–20–14). ADs 2000–23–04 R1 and 2018–20–14 applied to certain ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes. The SNPRM published in the **Federal Register** on February 24, 2021 (86 FR 11169). The FAA preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on October 29, 2020 (85 FR 68503). The NPRM was prompted by the FAA's determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The SNPRM proposed to require revising the existing

maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2020–0263.

The FAA is issuing this AD to address reduced structural integrity of the airplane. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the SNPRM or on the determination of the cost to the public.

Conclusion

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM.

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0263 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires the following service information, which the Director of the Federal Register approved for incorporation by reference as of November 20, 2018 (83 FR 52123, October 16, 2018).

- ATR ATR42–400/–500, Time Limits Document (TL), Revision 11, dated May 5, 2015.
- ATR ATR42–400/-500 Time Limits Temporary Revision TR01/17, dated May 3, 2017.

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 the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 9 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2018–20–14 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new actions to be $7,650 (90 work-hours × $85 per work-hour).

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,

(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.

Adoption of 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 (AD) 2000–23–04R1, Amendment 39–12174 (66 FR 19381, April 16, 2001); and AD 2018–20–14, Amendment 39–19448 (83 FR 52123, October 16, 2018); and
■ b. Adding the following new AD:

2021–09–13 ATR–GIE Avions de Transport Régional: Amendment 39–21527; Docket No. FAA–2020–0973; Project Identifier MCAI–2020–01113–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 23, 2021.

(b) Affected ADs

(1) This AD replaces AD 2000–23–04R1, Amendment 39–12174 (66 FR 19381, April 16, 2001) (AD 2000–23–04R1); and AD 2018–20–14, Amendment 39–19448 (83 FR 52123, October 16, 2018) (AD 2018–20–14).

(2) This AD affects AD 2008–04–19 R1, Amendment 39–16069 (74 FR 56713, November 3, 2009) (AD 2008–04–19 R1); and AD 2015–26–09, Amendment 39–18357 (81 FR 1483, January 13, 2016) (AD 2015–26–09).

(c) Applicability

This AD applies to ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness dated on or before July 7, 2020.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to prevent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Maintenance or Inspection Program Revision, With Changes

This paragraph restates the requirements of paragraph (g) of AD 2018–20–14, with revised figure designation and reference. For airplanes with an original airworthiness

certificate or original export certificate of airworthiness dated on or before May 3, 2017: Within 90 days after November 20, 2018 (the effective date of AD 2018–20–14), revise the maintenance or inspection program, as applicable, to incorporate the information specified in ATR ATR42–400/–500, Time Limits Document (TL), Revision 11, dated May 5, 2015; and ATR ATR42–400/–500 Time Limits Temporary Revision TR01/17, dated May 3, 2017. The initial compliance time for accomplishing the tasks is at the applicable times specified in ATR ATR42–400/–500, Time Limits Document (TL), Revision 11, dated May 5, 2015; and ATR ATR42–400/–500 Time Limits Temporary Revision TR01/17, dated May 3, 2017; or within 90 days after November 20, 2018; whichever occurs later, except for those certification maintenance requirements (CMRs) tasks identified in figure 1 to paragraph (g) of this AD.

Figure 1 to paragraph (g) – *Grace period for CMR tasks*

CMR/Maintenance Significant Item (MSI) Task	Compliance Time
213100-2A	Within 550 flight hours or 90 days, whichever occurs first, after November 20, 2018 (the effective date of AD 2018-20-14).
213100-2B	
213100-3A	
213100-3B	

(h) Retained Initial Compliance Times for Certain CMR Tasks, With Changes

This paragraph restates the requirements of paragraph (h) of AD 2018–20–14, with revised figure references. For the CMR tasks listed in figure 1 to paragraph (g) of this AD, the initial compliance time for accomplishing the tasks is at the applicable time specified in ATR ATR42–400/–500 Time Limits Temporary Revision TR01/17, dated May 3, 2017; or within the compliance time specified in figure 1 to paragraph (g) of this AD; whichever occurs later.

(i) Retained Restrictions on Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs), With a New Exception.

This paragraph restates the requirements of paragraph (i) of AD 2018–20–14, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program, as applicable, has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (n)(1) of this AD.

(j) New Maintenance or Inspection Program Revision

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0263, dated December 1, 2020 (EASA AD 2020–0263). Accomplishing the maintenance or inspection program revision required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2020–0263

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0263 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2020–0263 specifies revising ''the approved AMP [Aircraft Maintenance Program]'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA 2020–0263 is at the applicable ''thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2020–0263, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2020–0263 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2020–0263 does not apply to this AD.

(l) New Provisions for Alternative Actions, Intervals, and CDCCLs

After the maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0263.

(m) Terminating Action for Other ADs

Accomplishing the actions required by paragraph (g) or (j) of this AD terminates all requirements of the ADs specified in paragraphs (m)(1) and (2) of this AD for ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes only.

(1) AD 2008–04–19 R1.

(2) AD 2015–26–09.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(ii) AMOCs approved previously for AD 2018–20–14 are approved as AMOCs for the corresponding provisions of EASA AD 2020–0263 that are required by paragraph (j) of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or ATR–GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(o) Related Information

For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *Shahram.Daneshmandi@faa.gov.*

(p) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on June 23, 2021.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0263, dated December 1, 2020.

(ii) [Reserved]

(4) The following service information was approved for IBR on November 20, 2018 (83 FR 52123, October 16, 2018).

(i) ATR ATR42–400/–500, Time Limits Document (TL), Revision 11, dated May 5, 2015.

(ii) ATR ATR42–400/–500 Time Limits Temporary Revision TR01/17, dated May 3, 2017.

(5) For EASA AD 2020–0263, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(6) For ATR–GIE Avions de Transport Régional material, contact ATR–GIE Avions de Transport Régional, 1 Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atraircraft.com; http://www.atr-aircraft.com.*

(7) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0973.

(8) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on April 22, 2021.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–10463 Filed 5–18–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0259]

Safety Zone; FKCC Swim Around Key West, Key West, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the FKCC Swim Around Key West, Key West, Florida from 9 a.m. until 5 p.m. on June 12, 2021. Our regulation for recurring safety zones within the Captain of the Port Key West Zone identifies the regulated area for this event. This action is necessary to ensure the safety of event participants and spectators. During the enforcement period, no person or vessel may enter, transit through, anchor in, or remain within the regulated area without approval from the Captain of the Port Key West or a designated representative.

DATES: The regulations in 33 CFR 165.786, Table to § 165.786, Item 6.1, will be enforced from 9 a.m. until 5 p.m. on June 12, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Gregory Bergstrom, Sector Key West Waterways Management Department, Coast Guard; telephone (305) 292–8772; email *Greg.C.Bergstrom@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.786, for the Annual Swim Around Key West regulated area from 9 a.m. to 5 p.m. on June 12, 2021. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for recurring marine events within Sector Key West, Table to § 165.786, Item 6.1, specifies the location of the regulated area. During the enforcement period, no person or vessel may enter, transit through, anchor in, or remain within the established regulated areas without approval from the Captain of the Port Key West or designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

The Coast Guard will provide notice of the regulated area by Local Notice to Mariners and Broadcast Notice to Mariners. If the Captain of the Port Key West determines that the regulated area need not be enforced for the full duration stated in this publication, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 13, 2021.

Adam Chamie,

Captain, U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2021–10534 Filed 5–18–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0094]

Safety Zone; Annual Swim Around Key West, Key West, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the 45th Annual Swim Around Key West, Key West, Florida from 8 a.m. until 4 p.m. on June 26, 2021. Our regulation for recurring safety zones within the Captain of the Port Key West Zone identifies the regulated area for this event. This action is necessary to ensure the safety of event participants and spectators. During the enforcement period, no person or vessel may enter, transit through, anchor in, or remain within the regulated area without approval from the Captain of the Port Key West or a designated representative.

DATES: The regulations in 33 CFR 165.786, Table to § 165.786, Item 6.2, will be enforced from 8 a.m. until 4 p.m. on June 26, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Gregory Bergstrom, Sector Key West Waterways Management Department, Coast Guard; telephone (305) 292–8772; email *Greg.C.Bergstrom@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.786, for the Annual Swim Around Key West regulated area from 8 a.m. to 4 p.m. on June 26, 2021. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for recurring marine events within Sector Key West, Table to § 165.786, Item 6.2, specifices the location of the regulated area. During the enforcement period, no person or vessel may enter, transit through, anchor in, or remain within the

established regulated areas without approval from the Captain of the Port Key West or designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

The Coast Guard will provide notice of the regulated area by Local Notice to Mariners and Broadcast Notice to Mariners. If the Captain of the Port Key West determines that the regulated area need not be enforced for the full duration stated in this publication, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 13, 2021.

Adam Chamie,

Captain, U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2021–10532 Filed 5–18–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R08–OAR–2020–0021; FRL–10023–84–Region 8]

Approval and Promulgation of Implementation Plans; State of Utah; Logan, Utah-Idaho $PM_{2.5}$ Redesignation to Attainment, Maintenance Plan, and Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the request by the State of Utah to redesignate the Logan, Utah-Idaho (UT–ID) nonattainment area (NAA) (Logan NAA) to attainment status for the 2006 24-hour National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 microns ($PM_{2.5}$), and approving related State Implementation Plan (SIP) revisions submitted by the State of Utah on November 5, 2019, and January 13, 2020. EPA is taking this action pursuant to the Clean Air Act (CAA or the Act). A separate EPA redesignation rulemaking will be conducted for the Idaho portion of the Logan NAA.

DATES: This rule is effective on June 18, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2020–0021. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Crystal Ostigaard, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6602, *ostigaard.crystal@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means EPA.

I. Background

The background for this action is discussed in detail in our February 26, 2021 (86 FR 11694) proposal. In that document we proposed to approve the State of Utah's request to redesignate the Logan NAA to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. We also proposed to approve related SIP revisions submitted on November 5, 2019 and January 13, 2020. The November 5, 2019 submittal included revisions to Utah's R307–110–31 and R307–110–36 rules, concerning SIP Sections X.A. and X.F. The January 13, 2020 submittal contained revisions to R307–110–10 and the maintenance plan for the Logan NAA.

II. Response to Comments

We received no comments on the February 26, 2021 (86 FR 11694) proposal.

III. Final Action

We are approving the Governor of Utah's submittal of January 13, 2020, which contained revisions to R307–110–10, the Logan $PM_{2.5}$ maintenance plan and redesignation request, the maintenance plan's 2035 Motor Vehicle Emissions Budgets (MVEBs), and the nitrogen oxide (NO_X)-to-direct-$PM_{2.5}$ MVEB trading mechanism. We are also approving the Governor of Utah's submittal of November 5, 2019, which revised R307–110–31, R307–110–36, Utah SIP Section X.A., and Utah SIP Section X.F. Upon the effective date of this final action, the status of the Utah portion of the Logan area under 40 CFR part 81 will be revised to attainment.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of R307–110–10; R307–110–31; R307–110–36. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

[1] 62 FR 27968 (May 22, 1997).

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 19, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, and Wilderness areas.

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

Dated: May 11, 2021.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart TT—Utah

■ 2. In § 52.2320:

■ a. In the table in paragraph (c), revise the entries ''R307–110–10'', ''R307–110–31'', and ''R307–110–36''.

■ b. In the table in paragraph (e):

■ i. Revise the entries ''Section X.A. General Requirements and Applicability'' and ''Section X.F. Cache County''.

■ ii. Add the entry ''Logan, UT—ID Fine Particulate Matter ($PM_{2.5}$) Attainment Plan Summary'' at the end of the table.

The revisions and addition read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

Rule No.	Rule title	State effective date	Final rule citation, date	Comments
*	* * * *	*	*	*
R307–110. General Requirements: State Implementation Plan				
*	* * * *	*	*	*
R307–110–10	Section IX. Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.	12/5/2019	[insert **Federal Register** citation], 5/19/2021.	
*	* * * *	*	*	*
R307–110–31	Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability.	9/5/2019	[insert **Federal Register** citation], 5/19/2021.	
*	* * * *	*	*	*
R307–110–36	Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County.	9/5/2019	[insert **Federal Register** citation], 5/19/2021.	
*	* * * *	*	*	*

* * * * * (e) * * *

Rule title	State effective date	Final rule citation, date	Comments
* * *	*	* * *	*
X. Vehicle Inspection and Maintenance Program			
Section X.A. General Requirements and Applicability.	9/5/2019	[insert **Federal Register** citation], 5/19/2021	
* * *	*	* * *	*
Section X.F. Cache County	9/5/2019	[insert **Federal Register** citation], 5/19/2021	
* * *	*	* * *	*
Maintenance Plans			
* * *	*	* * *	*
Logan, UT–ID Fine Particulate Matter ($PM_{2.5}$) Attainment Plan Summary.	12/5/2019	[insert **Federal Register** citation], 5/19/2021	

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

■ 4. In § 81.345, the table titled ''UTAH—2006 24-HOUR $PM_{2.5}$ NAAQS'' is amended by revising the entry ''Logan, UT–ID: Cache County (part)'' to read as follows:

§ 81.345 Utah.

* * * * *

UTAH—2006 24-HOUR $PM_{2.5}$ NAAQS

[Primary and secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [2]	Type
Logan, UT–ID:				
Cache County (part)	June 18, 2021	Attainment.		
All portions of Cache County west of and including any portion of the following townships located within Utah:				
Township 15 North Range 1 East;				
Township 14 North Range 1 East;				
Township 13 North Range 1 East;				
Township 12 North Range 1 East;				
Township 11 North Range 1 East;				
Township 10 North Range 1 East;				
Township 9 North Range 1 East.				
* * *	*	* * *	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 30 days after November 13, 2009, unless otherwise noted.
[2] This date is July 2, 2034, unless otherwise noted.

* * * * *

[FR Doc. 2021–10364 Filed 5–18–21; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1635

Timekeeping Requirement

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (LSC) is adopting a final rule amending its regulation related to the timekeeping requirements of employees at LSC funding recipients. The final rule makes multiple changes to how recipients keep time. Aside from making multiple technical edits for clarity, the final rule defines the term ''case oversight'' and clarifies that employees who are subject to the timekeeping requirement are those doing work that can be charged to any of the recipient's awards as a direct cost. The final rule changes the requirements for timekeeping by requiring recipient employees who charge their time to awards as direct costs to keep time consistent with this part; establishing that employees must submit their time by the end of the pay period; requiring recipients to use the same documentation and standards for LSC grants as non-LSC grants; and allowing recipients to decide the time increments that their employees should use to record their time.

DATES: This final rule is effective on January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Senior Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007; (202) 295–1563 (phone), (202) 337–6519 (fax), or *sdavis@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In 1995, LSC initiated rulemaking to require recipient employees to keep records of time spent working on LSC-funded activities. 60 FR 48956, Sep. 21, 1995. LSC took this step to ''improve accountability of recipients for their Corporation funds, and in response to concerns expressed during Congressional hearings.'' *Id.* LSC wanted to assure that recipients maintained adequate documentation to support allocation of costs to the LSC grant. *Id.* at 48957. Consequently, LSC intended the rule ''to require all recipients to account for the time spent on all cases, matters and other activities by their attorneys and paralegals, whether funded by [LSC] or other sources.'' *Id.* LSC did not define either ''attorney'' or ''paralegal,'' although LSC did define the terms ''cases'' and ''matters.'' *Id.* LSC did not prescribe either the format or the content of the required timekeeping reports. *Id.*

After receiving public comment, LSC adopted the proposed rule as final, with limited changes. 61 FR 14261, Apr. 1, 1996. In the preamble to the final rule, LSC stated that the rule applied to recipient attorneys and paralegals regardless of whether their salaries were paid using LSC funds. *Id.* Applying the rule to all attorneys and paralegals, LSC explained, reflected language that Congress included in a version of the fiscal year 1996 appropriations act that it passed, but the President vetoed. *Id.* LSC retained the requirement because it anticipated that Congress and the President would agree on legislation containing a similar requirement for fiscal year 1996, which they did. Sec. 504(a)(10), Pubic Law 104–134, 110 Stat. 1321, 1321–54 (1996) (stating that LSC could not award appropriated funds to any person or entity unless ''such person or entity agrees to maintain records of time spent on each case or matter with respect to which the person or entity is engaged.''). This requirement has been incorporated by reference annually thereafter.

In the preamble to the final rule, LSC explained how it expected recipients to implement the requirement to maintain ''contemporaneous'' time records. LSC stated that ''contemporaneous'' meant ''in most cases, by the end of the day.'' 61 FR at 14262.

LSC initiated its first revision of part 1635 in 1998. That year, the Office of Inspector General (OIG) conducted an audit of recipients' compliance with specific regulations, including part 1635, and issued a report that formed the basis for Management's recommended changes. In the report, OIG stated its finding that, based on records maintained in compliance with part 1635, it could not tell whether part-time employees of an LSC funding recipient engaged in restricted work during LSC-funded time. 63 FR 56594, Oct. 22, 1998.

In response to OIG's findings, LSC proposed two changes. The first was to require recipients to ensure that the time records for both full- and part-time employees were consistent with their payroll time and attendance records. In other words, ''the time spent by an employee must at least add up to the amount reflected in the attendance records.'' *Id.* at 56595. LSC also proposed to require full-time and part-time attorneys and paralegals to record, for each case, matter, or supporting activity that they handled, the date and exact time of day they worked on that activity. *Id.* Alternatively, LSC proposed that part-time attorneys and paralegals could certify that they did not engage in restricted activities during the time they were working for the recipient. *Id.*

LSC did not finalize its revisions to part 1635 until 2000. At that time, LSC adopted the rule with two changes relevant here. 65 FR 41879, Jul. 7, 2000. First, LSC removed the proposed text requiring attorney and paralegal time records to be consistent with their payroll time and attendance records. *Id.* at 41880. Several commenters on the proposed rule expressed concern that a rule requiring employee time records to match the payroll records would put recipients at risk of violating the Fair Labor Standards Act. *Id.* Although LSC did not agree with the commenter raising the concern, LSC removed the language because it believed the language was not necessary. *Id.* Second, LSC adopted the certification requirement for part-time attorneys and paralegals. *Id.* Put differently, part-time attorneys and paralegals do not have to report the date and exact time of day that they worked on cases, matter, or supporting activities, but must certify that they did not work on restricted activities during the hours they worked for a recipient.

Management believes regulatory action is justified at this time for three reasons. First, the lack of a definition for the term ''paralegal'' creates a lack of uniformity across recipients regarding which employees must keep time. In other words, some recipients employ staff who are called paralegals, but who do only administrative work, while others employ staff who perform substantive legal work under an attorney's supervision or who have satisfied their state's requirements for holding oneself out as a paralegal, but who may not have the title of paralegal. Because the regulation does not define the term ''paralegal,'' it is unclear whether some or all recipient employees described in the preceding sentence must keep time consistent with part 1635. Consequently, LSC cannot be certain that part 1635 covers all recipient employees who are doing significant amounts of work on the LSC grant, which appears to be what LSC intended when it originally drafted the rule to cover attorneys and paralegals. LSC proposes to remedy this problem by revising the language to include all employee staff, regardless of qualification or title, who are doing work that can be identified with specific awards. Conversely, employee staff whose work is solely allocated across awards as indirect costs need not record their time under part 1635.

Second, the federal government rules governing recipient timekeeping have changed significantly, as have best practices for nonprofit timekeeping. LSC believes it is reasonable to reconsider the requirements of part 1635 in light of these advances and determine whether to revise the rule to reflect the new standards. Finally, LSC proposes to remove any provisions of the rule that are obsolete.

LSC added rulemaking on part 1635 to its annual rulemaking agenda in April 2016. On January 30, 2020, the Operations and Regulations Committee (''Committee'') of the Board voted to recommend that the Board authorize rulemaking on part 1635. The Board voted to authorize rulemaking on January 31, 2020. On October 19, 2020, the Committee voted to recommend that the Board approve publication of an NPRM in the **Federal Register** with a 60-day public comment period. On October 20, 2020, the Board accepted the Committee's recommendation and voted to approve publication of the NPRM. LSC published the rule in the **Federal Register** on November 5, 2020. The comment period remained open for ninety-two days and closed on February 5, 2021.

On April 19, 2021, the Committee voted to recommend that the Board adopt this final rule and approve its publication in the **Federal Register**. On

April 20, 2021, the Board voted to adopt and publish this final rule.

Materials regarding this rulemaking are available in the open rulemaking section of LSC's website at *http://www.lsc.gov/about-lsc/laws-regulations-guidance/*rulemaking. After publication of the final rule, materials will migrate to the closed rulemaking section of LSC's website.

II. Section-by-Section Discussion of Proposed Changes and Comments

LSC received eleven relevant comments—nine from executive directors of grantee organizations, one from the National Legal Aid and Defender Association (NLADA), and one from the Management Information Exchange. LSC also had a follow-up conversation with NLADA about their concerns with proposed § 1635.5.

§ 1635.1 What is the purpose of this section?

LSC proposed making technical edits to this section for clarity.

Comments: NLADA affirmatively endorsed the proposed changes. Four other commenters stated that they joined in NLADA's comments generally. No other comments explicitly referenced this section.

Response: LSC adopts the proposed rule as final without changes.

§ 1635.2 Definitions

LSC proposed revising the definition of the term ''case'' in paragraph (a) to be more consistent with the definition of the same term in the Case Service Report Handbook. LSC proposed introducing a new definition for the term ''case oversight'' in paragraph (b) of this section.

Comments: LSC received few comments addressing this section, and the opinions about the changes varied. NLADA endorsed the proposed changes; they liked the addition of the new term ''case oversight'' and liked that it can be billed as a matter or case activity. One commenter, like NLADA, supported the addition of case oversight as a new time activity that will capture the review of cases at closing and the review of open cases. However, they wanted LSC to make it more explicit whether ''case oversight'' is a matter or case activity.

The sole commenter who criticized the change stated that ''case oversight'' is newly defined, and it is not clear why. They suggested explaining or removing the definition as unnecessary.

Response: LSC adopts the proposed rule as final with minor changes. LSC will include language in the definition explaining that a supervisor's ''case oversight'' activities may be included within case activities when it involves extensive work on a single case—for example, reviewing, in detail, the advice provided to a client—and included within supporting activities when the oversight involves the aggregate work on a number of different cases, such as reviewing multiple files for a retainers or citizenship attestations.

§ 1635.3 Who is covered by the timekeeping requirement?

LSC proposed creating a new section dedicated to explaining which recipient employees must report time consistent with the requirements of this section. LSC proposed replacing the language limiting the application to part 1635 to recipient employees with language extending part 1635 to any recipient employee whose salary is allocated, in whole or in part, to any of the recipient's funding sources as a direct cost.

Comments: LSC received six comments about this section. All commenters objected to LSC's proposed changes to this section, although they proposed different solutions.

NLADA said that the proposed requirement covers a broader group of recipient employees than necessary. They recommended that LSC revisit this proposal or add clarification about distinguishing between employees doing substantive legal work and non-substantive work. Generally, the comments evinced a concern among NLADA's stakeholders that the proposed rule would require a legal aid employee who is doing non-substantive work (like screening or intake) but whose salary is billed as a direct cost to comply with the part 1635 timekeeping requirements—an outcome that they believe to be ''over-inclusive'' and burdensome.

Three comments suggested that clearly defining ''paralegal'' is a better solution to the problem. One commenter stated that they are confused as to who must keep time under the proposed change; they stated that the preamble had many different definitions, but the actual regulation was ''minimalist.'' They proposed that the language instead be changed to, ''Any attorney, paralegal, or other recipient employees who perform substantive legal work that is charged as a direct cost (as defined in 45 CFR 1630.5(d)) must keep time according to the standards set forth in § 1635.4.''

Another commenter suggested LSC add a sentence so that the definition of paralegal ''does not include non-attorney time on administrative or supporting tasks that are not directly involved in providing clients substantive legal services, regardless of whether the compensation for the staff is characterized as direct or indirect in any applicable grant award.''

Response: LSC adopts the proposed rule as final with changes. LSC did not intend for employees doing an insubstantial amount of work on a grant (such as intake or screening) to be subject to the timekeeping requirement. Rather, the intention was for anyone doing work identifiable to a grant to comply with the timekeeping requirement. LSC will modify the final rule in line with the suggestion of a commenter, so that the rule is clear that employees must comply with section 1635.4 when the work is charged to any award as a direct cost.

§ 1635.4 What are LSC's timekeeping standards?

LSC proposed replacing existing section 1635.3 with a new section 1635.4 that adopts documentation requirements for personal compensation from the Uniform Guidance. LSC specifically sought comment on the question of when employees covered by part 1635 must record their time in a recipient's timekeeping system.

Paragraph (a) proposed to establish several requirements for recipients' timekeeping records, including that records encompass both LSC-funded and all other activities compensated by the recipient on an integrated basis. LSC specifically requested comments on the question of when employees covered by part 1635 must record their time in a recipient's timekeeping system. Paragraph (b) proposed to require recipients to maintain records for employees who are not exempt from Fair Labor Standards Act overtime requirements stating the total number of hours worked each day. Paragraph (c) proposed to require recipients to use the same documentation and standards to justify counting salaries and wages of staff working on the LSC grant toward the cost-matching requirements of any Federal awards that they use to charge the salaries to the LSC grant.

Paragraph (d) proposed to allow recipients to establish the increments for which employees subject to part 1635 report their time, with the recommendation that the increment be no greater than one-quarter of an hour. LSC proposed that paragraph (e) be a rewrite of previous paragraph (d), with the language clarified and the reference to *de minimis* activities removed.

Comments: All eleven commenters discussed the proposed changes to this section. The comments on § 1635.4 clustered around five major subcategories, outlined below.

1. Comments About the Deadline for Entering Time

Seven commenters stated that the time period by which an employee's time needs to be entered into the system should be by the end of the employee's pay period (usually every two weeks or bimonthly). One recipient commenter stated that it currently asks its staff to enter time at least every 14 days and that they believe this satisfies the current requirement that time records be entered contemporaneously with the work being done. Another commenter stated that having a deadline to enter as the end of the pay period would ''address the reality of legal work while providing a uniform definition.''

NLADA did not specifically suggest that the end of the pay period be the deadline by which to enter time. Rather, they encouraged LSC to develop as long a timeframe as possible for employees to enter time. One commenter echoed this sentiment, asking for the deadline to be as liberal as possible, but ''no less than 30 days.'' According to this commenter, this would avoid instances of noncompliance and allow programs to meet requirements of various funders.

Response: LSC adopts the proposed rule as final with changes. LSC adopts a deadline for entering time that is the end of the recipient employee's pay period.

2. Comments About Proposed Section 1635.4(a) and Requirements for Timekeeping Records/''Integrated Basis''

Three grantees and NLADA expressed concern about the proposed changes to this part of the section. The comments indicated that recipients share confusion about what ''integrated basis'' means. On top of that, the example provided in paragraph (a)(7)(ii) raised concerns that costs would need to be allocated to a specified funding source by every attorney at the moment the attorney enters time.

NLADA stated that its stakeholders did not know what LSC intended by the term ''integrated basis.'' However, they also said that if the term just means that LSC and non-LSC work be located in the same case management system, then they have no objection. One commenter said that if ''integrated basis'' means that LSC will require that other funds and other types of grants be integrated into a single payroll system, the requirement would be a problem for them.

The example that LSC provided in § 1635.4(a)(7)(ii) said: ''For example, if a recipient employee conducts a legal information session on filing a pro se divorce petition, the employee could record 'pro se divorce group information session, 1.5 hours, LSC grant.' '' Several commenters expressed alarm that this example indicated that LSC expected grantee employees to make funding allocations up front when they are entering their hours. They stated that this would be a problem because funding allocations are not made at that stage or by individual attorneys.

As a separate concern with this section, one commenter pointed out a discrepancy that arose in this section of whether ''matter'' includes indirect services. They wrote:

> Section 1635.2 states that a ''Matter'' may include indirect services. Section 1635.4(a)(7)(ii) provides, however, that a recipient's time system must contain '[f]or matters or supporting activities, the amount of time and type of activity on which a recipient employee spent time and sufficient information to link the activity to a specific award.' This implies that matters include only direct services since indirect services may not be linked to a specific award.

One commenter, also noting this as a potential point of confusion, proposed changing the language of the rule to reflect how grantees allocate costs to ''link the activity to a specific award or indirect cost amount.''

Response: LSC adopts the proposed rule as final with changes. LSC will clarify that LSC and non-LSC funds need to be ''integrated'' into the same case management system, not the same payroll system. LSC will remove the part of the example in § 1635.4(a)(7)(ii) that describes the attorney entering and also allocating the time, as this does not reflect how time is allocated in recipient organizations. Finally, LSC will insert language in § 1635.4(a)(7)(ii) clarifying that ''matter'' does include indirect services.

3. Comments About Paragraphs (b) and (c)

NLADA, referring to paragraphs 1635.4(b) and (c), took no position on whether to state DOL's regulations within LSC's regulations. They said that while it seemed unnecessary, it imposed no new burdens on LSC recipients. They did discuss general concerns with looking towards Uniform Guidance to regulate recipients, as ''the relationship between LSC and its recipients is a unique one,'' and the Uniform Guidance ''will never be a perfect fit for LSC programs.'' No other commenters addressed this section.

Response: LSC adopts the proposed rule as final without changes.

4. Comments About Paragraph (d) and Recording Time in Particular Time Increments

Most commenters were either silent on this proposed change or supportive. NLADA endorsed LSC's removal of 15-minute time increments but wanted LSC to remove the language that it ''recommends'' still using increments of no more than 15 minutes. One commenter stated something similar, writing:

> Essentially, by maintaining this language, LSC is continuing to encourage this inefficient practice. Also, a 'recommendation' from LSC carries weight. It conveys that this is a 'best practice' and this surely cannot be the intent here.

Response: LSC adopts the proposed rule as final without change. LSC will maintain the recommendation that grantees enter time in 15-minute time intervals, as this is an increment of time that is small enough to capture the minimum amount of time an employee spends on a case or matter, but not so small as to create a significant time entry burden on employees subject to part 1635.

5. Comments About Paragraph (e), the Removal of *De Minimis* Language and Quarterly Basis Certification

LSC received two comments about proposed paragraph (e). NLADA and another commenter wanted LSC to clarify if the exception for *de minimis* activities still exists because the language was removed in the proposed revision. The commenter said that having the exception makes the rule clearer. They expressed the concern that in deleting the language, this might be interpreted as deleting the exception.

Response: LSC adopts the proposed rule as final with changes. LSC will re-insert the *de minimis* exception to clarify that the exception still exists.

§ 1635.5 What are LSC's standards for ensuring the proper allocation of employee compensation costs across awards?

LSC proposed to create a new section requiring recipients to have a method for ensuring the accuracy of timekeeping records and proper allocation of salaries and wages charged to awards as direct costs.

Comments: Eight commenters raised significant concerns with LSC's proposed changes in this section. NLADA flatly opposed the changes, saying:

> The proposed § 1635.5 is an overly prescriptive solution that attempts to impose a one-size-fits-all approach to direct cost allocation. It would require extensive

additional administrative costs, is not necessarily the most sensible approach for salaried staff working on the basic field grant, and would not necessarily provide any clear benefit when it comes to accurately allocating direct costs across funding sources.

The commenters read the proposed changes as meaning that LSC would require the reconciling of hours between a recipient's payroll system and timekeeping system. One commenter discussed the fact that most payroll records do not reflect total hours that attorneys work. Rather, payroll tracks attendance and leave. Thus, they assert that ''payroll and timekeeping systems cannot be linked.'' Echoing this theme, another commenter said that the proposed changes ''conflates two separate, independent record keeping systems.'' This commenter stated that in most situations, the payroll and timekeeping records for attorneys will not match. Another commenter said that the requirement to reconcile ''deprives organizations of flexibility and options . . . by conflating these systems in the timekeeping regulation.''

At least five commenters simply indicated that they didn't know what LSC meant by ''reconciling.'' A commenter urged LSC not to adopt proposed § 1635.5. But if LSC does adopt it, they asked that LSC clarify if ''reconciliation'' means a true reconciliation—an accounting process that ensures two sets of records are in agreement—or a more general comparison of records. Furthermore, this commenter advocated for LSC to allow the ''sampling'' of data as a means of comparison.

Other commenters expressed confusion over why LSC issued the proposed change in the first place. One commenter pointed out that LSC already can review timekeeping records as part of its annual audit. This commenter would like LSC to provide a more detailed discussion of the challenges it has faced so that it can provide alternate solutions. Additionally, another commenter would like to have a better understanding of LSC's needs in proposing this change. NLADA is unclear what the benefit would be to LSC.

Finally, a commenter suggested that § 1635.5 not be added to the Timekeeping Requirement, but instead be located in part 1630—Cost Standards and Procedures.

In LSC's conversation with NLADA, NLADA reiterated its stakeholders' concerns with proposed § 1635.5. NLADA stated that they would like for LSC to clarify why the reconciliation requirement was incorporated in the first place. They said that recipient organizations reported that if they knew what the underlying problem was that LSC was attempting to correct with this rulemaking, they could then make alternative suggestions that would be less burdensome for them.

Response: LSC appreciates the commenters' thoughtful concerns and will remove this section from the final rule. LSC drafted this proposed change to address issues raised by its compliance staff regarding difficulty they had experienced finding support in recipients' records to justify salaries and wages the recipient charged directly to LSC grants and contracts. The comments make clear that LSC's proposed approach raises legitimate concerns about administrative burdens on grantees, as well as whether the approach will address the oversight concern LSC intended to resolve. LSC will proceed with finalizing the rest of the changes proposed in this rulemaking; upon completion of this rulemaking, LSC will initiate conversations with stakeholders about how to address LSC's oversight needs while responding to stakeholders' concerns.

Section 1635.6 Who outside the recipient has access to these records?

LSC proposed to make only stylistic changes to changes to this section.

Comments: NLADA stated that they did not have any objections to these changes. All other comments were silent on this section.

Response: LSC will redesignate this section as 1635.5 in the final rule and adopt the rule without additional changes.

Additional Comments

Comments: NLADA and another commenter suggested that changes not be implemented until 2022. An additional commenter requested that LSC invite further discussion before adoption of any of the provisions.

Response: LSC agrees with the commenters. LSC will adopt the rule with an effective date of January 1, 2022.

List of Subjects in 45 CFR Part 1635

Grant program—law; Legal services; Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, the Legal Services Corporation revises 45 CFR part 1635 to read as follows:

PART 1635—TIMEKEEPING REQUIREMENT

Sec.

1635.1 What is the purpose of this part?
1635.2 Definitions.
1635.3 Who is covered by the timekeeping requirement?
1635.4 What are LSC's timekeeping standards?
1635.5 Who outside the recipient has access to these records?

Authority: 42 U.S.C. 2996g(e).

§ 1635.1 What is the purpose of this part?

This part is intended to improve recipient accountability for the use of all funds by:

(a) Assuring that allocations of direct costs to a recipient's LSC grant pursuant to 45 CFR part 1630 are supported by accurate records of the cases, matters, and supporting activities for which the funds have been expended;

(b) Enhancing the recipient's ability to determine the cost of specific functions; and

(c) Increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations.

§ 1635.2 Definitions.

As used in this part—

(a) *Case* means a form of program service in which a recipient employee provides legal assistance to one or more specific clients, including but not limited to providing representation in litigation, administrative proceedings, and negotiations, and such actions as advice, providing brief services, and transactional assistance.

(b)(1) *Case oversight* means a supervisor's review of a case for regulatory compliance, consistency with Case Service Report reporting rules, and quality control purposes. Case oversight activities include, but are not limited to, review of file for retainer, citizenship attestation or documentation of eligible non-citizen status, and documentation of financial eligibility determination; review of closing codes; and review of advice provided or pleadings filed.

(2) *Case oversight* activities may be counted as case activity when the supervisor conducts extended review of the substantive legal advice provided in the case. *Case oversight* activities may be reported as a supporting activity when it represents the aggregate of a supervisor's time spent doing brief review of a large number of cases.

(c) *Matter* means an action that contributes to the overall delivery of program services but does not involve direct legal advice to or legal representation of one or more specific clients. Examples of matters include both direct services, such as community education presentations, operating pro se clinics, providing information about the availability of legal assistance, and

developing written materials explaining legal rights and responsibilities; and indirect services, such as training, continuing legal education, supervision of program services, preparing and disseminating desk manuals, PAI recruitment, referral, intake when no case is undertaken, and tracking substantive law developments.

(d) *Restricted activities* means those activities that recipients may not engage in pursuant to 45 CFR part 1610.

(e) *Supporting activity* means any action that is not a case or matter.

§ 1635.3 Who is covered by the timekeeping requirement?

Any attorney, paralegal, or other recipient employee who performs work that is charged to one or more awards as a direct cost (as defined in 45 CFR 1630.5(d)) must keep time according to the standards set forth in § 1635.4.

§ 1635.4 What are LSC's timekeeping standards?

(a) Recipients must base allocations of salaries and wages on records that accurately reflect the work performed. These records must:

(1) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(2) Be incorporated into the recipient's official records by no later than the end of the employee's pay period, generally every two weeks;

(3) Reflect the total activity for which the recipient compensates the employee;

(4) Encompass within the grantee's case management system both LSC-funded and all other direct cost activities compensated by the recipient, but may include the use of subsidiary records as defined in the recipient's written policies;

(5) Comply with the recipient's established accounting policies and practices;

(6) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one award or an indirect cost activity and a direct cost activity;

(7) Contain

(i) For cases, a unique client name or case number, the amount of time spent on the case, a description of the activities performed, and the dates on which a recipient employee worked on the case;

(ii) For matters or supporting activities, the amount of time and type of activity on which a recipient employee spent time and sufficient information to link the activity to a specific award or indirect cost amount. For example, if a recipient employee conducts a legal information session on filing a pro se divorce petition, the employee could record ''pro se divorce group information session, 1.5 hours.''

(b) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(c) Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.

(d) Recipients may establish the increments of time for which employees must record their activities (*e.g.,* .25 hours, one-sixth of an hour). LSC recommends that recipients require employees to record their time in increments no greater than one quarter of an hour.

(e)(1) Any recipient employee subject to this part who works part-time for the recipient and part-time for an organization that engages in restricted activities shall certify in writing that the employee has not engaged in restricted activity during any time for which the employee was compensated by the recipient or has not used recipient resources to carry out restricted activities.

(2) The certification requirement does not apply to a *de minimis* action related to a restricted activity. Actions consistent with the *de minimis* standard are those that meet all or most of the following criteria: Actions that are of little substance; require little time; are not initiated by the part-time employee; and, for the most part, are unavoidable. Employees shall make the required certification on a quarterly basis using a form determined by LSC.

§ 1635.5 Who outside the recipient has access to these records?

Recipients must make time records required by this section available for examination by auditors and representatives of LSC, and by any other person or entity statutorily entitled to access to such records. LSC shall not disclose any time record except to a Federal, State, or local law enforcement official or to an official of an appropriate bar association to enable such bar association official to investigate of an alleged violation of the rules of professional conduct.

Dated: May 10, 2021.

Stefanie Davis,

Senior Assistant General Counsel.

[FR Doc. 2021–10137 Filed 5–18–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 210513–0105]

RIN 0648–BK51

Fisheries of the Northeastern United States; Framework Adjustment 33 to the Atlantic Sea Scallop Fishery Management Plan

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

ACTION: Interim final rule.

SUMMARY: NMFS approves and implements Framework Adjustment 33 to the Atlantic Sea Scallop Fishery Management Plan. This action is necessary to set scallop specifications and other measures for fishing years 2021 and 2022, implement measures to protect small scallops, and to reduce bycatch of flatfish. This action is intended to prevent overfishing and improve both yield-per-recruit and the overall management of the Atlantic sea scallop resource.

DATES: Effective May 19, 2021. Comments must be received by June 18, 2021.

ADDRESSES: The New England Fishery Management Council developed an environmental assessment for this action that describes the measures in Framework Adjustment 33 and other considered alternatives and analyzes the impacts of the measures and alternatives. Copies of Framework 33, the environmental assessment, the Initial Regulatory Flexibility Analysis (IRFA), and information on the economic impacts of this rulemaking are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: *https://www.nefmc.org/library/framework-33.*

You may submit comments, identified by NOAA–NMFS–2021–0033, by the following method:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0033 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 *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).

Copies of the small entity compliance guide are available from Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930–2298, or available on the internet at: *https://www.fisheries.noaa.gov/species/atlantic-sea-scallop#commercial.*

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, 978–281–9233.

SUPPLEMENTARY INFORMATION:

Background

The scallop fishery's management unit ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Atlantic Sea Scallop Fishery Management Plan (FMP), established in 1982, includes a number of amendments and framework adjustments that have revised and refined the fishery's management. The New England Fishery Management Council sets scallop fishery catch limits and other management measures through specification or framework adjustments that occur annually or biennially. Due to the COVID–19 global pandemic, the annual scallop surveys that were to be conducted in the summer of 2020 were delayed and some canceled outright. Because of this, the Council had to delay final action and was not able to adopt Framework 33 until January 27, 2021. The Council submitted an environmental assessment to NMFS on April 7, 2021, for approval. The 2021 scallop fishing year began on April 1, 2021, and NMFS was unable to implement Framework 33 for the start of the fishing year. To help ensure that Framework 33 would be implemented as close as possible to April 1, 2021, the start of the fishing year, NMFS is implementing Framework 33 through this interim final rule but is also affording the public the opportunity to comment on this action by accepting public comment until June 18, 2021.

NMFS has approved all of the measures in Framework 33 recommended by the Council, as described below. The Council reviewed the regulations in this rule as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act. This interim final rule implements Framework 33, which sets scallop specifications and other measures for fishing years 2021 and 2022, including changes to the catch, effort, and quota allocations and adjustments to the rotational area management program for fishing year 2021, measures to reduce bycatch of flatfish, and default specifications for fishing year 2022. The Magnuson-Stevens Act allows NMFS to approve, partially approve, or disapprove measures proposed by the Council based on whether the measures are consistent with the FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. NMFS generally defers to the Council's policy choices unless there is a clear inconsistency with the law or the FMP.

Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACL), Annual Catch Targets (ACT), Annual Projected Landings (APL) and Set-Asides for the 2021 Fishing Year, and Default Specifications for Fishing Year 2022

The Council set the OFL based on a fishing mortality (F) of 0.61, equivalent to the F threshold updated through the Northeast Fisheries Science Center's most recent scallop management track assessment that was completed in September 2020. The ABC and the equivalent total ACL for each fishing year are based on an F of 0.45, which is the F associated with a 25-percent probability of exceeding the OFL. The Council's Scientific and Statistical Committee (SSC) recommended scallop fishery ABCs of 67.3 million lb (30,517 mt) for 2021 and 61.9 million lb (28,074 mt) for the 2022 fishing year, after accounting for discards and incidental mortality. The SSC will reevaluate and potentially adjust the ABC for 2022 when the Council develops the next framework adjustment.

Table 1 outlines the scallop fishery catch limits derived from the ABC values and the projected landings of the fleet. After deducting the incidental target total allowable catch (TAC), the research set-aside (RSA), and the observer set-aside, the remaining ACL available to the fishery is allocated according to the following fleet proportions established in Amendment 11 to the FMP (73 FR 20090; April 14, 2008): 94.5 percent is allocated to the limited access scallop fleet (*i.e.,* the larger ''trip boat'' fleet); 5 percent is allocated to the limited access general category (LAGC) individual fishing quota (IFQ) fleet (*i.e.,* the smaller ''day boat'' fleet); and the remaining 0.5 percent is allocated to limited access scallop vessels that also have LAGC IFQ permits. Amendment 15 to the FMP (76 FR 43746; July 21, 2011) specified that no buffers to account for management uncertainty are necessary in setting the LAGC ACLs, meaning that the LAGC ACL is equal to the LAGC ACT. For the limited access fleet, the management uncertainty buffer is based on the F associated with a 75-percent probability of remaining below the F associated with ABC/ACL, which, using the updated fishing mortality applied to the ABC/ACL, now results in an F of 0.39.

TABLE 1—SCALLOP CATCH LIMITS (MT) FOR FISHING YEARS 2021 AND 2022 FOR THE LIMITED ACCESS AND LAGC IFQ FLEETS

Catch limits	2021 (mt)	2022 (mt) [1]
OFL	45,392	41,926
ABC/ACL (discards removed)	30,517	28,074
Incidental Catch	23	23
RSA	567	567

TABLE 1—SCALLOP CATCH LIMITS (MT) FOR FISHING YEARS 2021 AND 2022 FOR THE LIMITED ACCESS AND LAGC IFQ FLEETS—Continued

Catch limits	2021 (mt)	2022 (mt) [1]
Observer Set-Aside	305	281
ACL for fishery	29,622	27,203
Limited Access ACL	27,993	25,707
LAGC Total ACL	1,629	1,496
LAGC IFQ ACL (5 percent of ACL)	1,481	1,360
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	148	136
Limited Access ACT	24,260	22,279
APL (after set-asides removed)	17,269	(1)
Limited Access APL (94.5 percent of APL)	16,319	(1)
Total IFQ Annual Allocation (5.5 percent of APL) [2]	950	712
LAGC IFQ Annual Allocation (5 percent of APL) [2]	863	648
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) [2]	86	65

[1] The catch limits for the 2022 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2022 that will be based on the 2021 annual scallop surveys.
[2] The 2022 IFQ annual allocations are set at 75 percent of the 2021 IFQ Annual Allocations.

This action deducts 1.25 million lb (567 mt) of scallops annually for 2021 and 2022 from the ABC for use as the Scallop RSA to fund scallop research. Participating vessels are compensated through the sale of scallops harvested under RSA projects. Of the 1.25 million-lb (567-mt) allocation, NMFS has already allocated 310,904 lb (141,024 kg) to previously funded multi-year projects as part of the 2020 RSA awards process. NMFS reviewed proposals submitted for consideration of 2021 RSA awards and announced project selections on March 15, 2021. Details on the 2021 RSA awards can be found on our website here: *https://www.fisheries.noaa.gov/new-england-mid-atlantic/science-data/2021-2022-sea-scallop-research-set-aside-projects-selected*.

This action also deducts one percent of the ABC for the industry-funded observer program to help defray the cost to scallop vessels that carry an observer. The observer set-aside is 305 mt for 2021 and 281 mt for 2022. In fishing year 2021, the compensation rates for limited access vessels in open areas fishing under days-at-sea (DAS) is 0.13 DAS per DAS fished. For access area trips, the compensation rate is 250 lb (113 kg), in addition to the vessel's possession limit for the trip for each day or part of a day an observer is onboard. LAGC IFQ vessels may possess an additional 250 lb (113 kg) per trip when carrying an observer. NMFS may adjust the compensation rate throughout the fishing year, depending on how quickly the fleets are using the set aside. The Council may adjust the 2022 observer set-aside when it develops specific, non-default measures for 2022.

Open Area DAS Allocations

This action implements vessel-specific DAS allocations for each of the three limited access scallop DAS permit categories (*i.e.,* full-time, part-time, and occasional) for 2021 and 2022 (Table 2). The 2021 DAS allocations are the same as those allocated to the limited access fleet in 2020. Framework 33 sets 2022 DAS allocations at 75 percent of fishing year 2021 DAS allocations as a precautionary measure. This is to avoid over-allocating DAS to the fleet in the event that the 2022 specifications action is delayed past the start of the 2022 fishing year. The allocations in Table 2 exclude any DAS deductions that are required if the limited access scallop fleet exceeds its 2020 sub-ACL.

TABLE 2—SCALLOP OPEN AREA DAS ALLOCATIONS FOR 2021 AND 2022

Permit category	2021	2022 (default)
Full-Time	24.00	18.00
Part-Time	9.60	7.20
Occasional	2.00	1.50

Changes to Fishing Year 2021 Sea Scallop Access Area Boundaries

For fishing year 2021 and the start of 2022, Framework 33 keeps the Mid-Atlantic Access Area (MAAA), Nantucket Lightship-South-Deep Access Area (NLS–S–D), and Closed Area I Access Area (CAI) open as access areas. However, Framework 33 will not allocate any additional landings from CAI for the limited access fleet (see below). In addition, this action opens one new area, Closed Area II Access Area (CAII), formerly known as the Closed Area II-Southwest and Extension Closed Area (Table 3).

TABLE 3—CLOSED AREA II SCALLOP ACCESS AREA

Point	N latitude	W longitude	Note
CAII1	41°11′	67°20′	
CAII2	41°11′	66°41′	
CAII3	41°0′	66°41′	
CAII4	41°0′	(1)′	(2)′

TABLE 3—CLOSED AREA II SCALLOP ACCESS AREA—Continued

Point	N latitude	W longitude	Note
CAII5	40°40′	(3)′	(2)′
CAII6	40°40′	67°20′	
CAII1	41°11′	67°20′	

[1] The intersection of 41°0′ N lat. and the U.S.-Canada Maritime Boundary, approximately 41°0′ N lat. and 66°09.33′ W long.
[2] From Point CAII4 connected to Point CAII5 along the U.S.-Canada Maritime Boundary.
[3] The intersection of 40°40′ N lat. and the U.S.-Canada Maritime Boundary, approximately 40°40′ N lat. and 65°52.61′ W long.

Fishing Year 2021 Sea Scallop Closed Area Boundaries

Framework 33 will keep two existing closed areas closed, *i.e.,* the Nantucket Lightship-Triangle Scallop Closed Area and the Stellwagen Bank Scallop Closed Area. In addition, Framework 33 closes two more areas to scallop fishing, *i.e.,* the Nantucket Lightship-North Closed Area (NLS–N) (Table 4) and Closed Area II-East (CAII–E) Closed Area (Table 5), formerly known as the Closed Area II Rotational Area. Framework 33 is closing NLS–N because there is no longer enough harvestable biomass in the area to support a full trip for limited access vessels. This action is closing CAII–E to protect small scallops that have not yet recruited to the fishery and to reduce bycatch of Georges Bank yellowtail flounder and northern windowpane flounder on Georges Bank.

TABLE 4—NANTUCKET LIGHTSHIP-NORTH CLOSED AREA

Point	N latitude	W longitude
NLSN1	40°50′	69°30′
NLSH2	40°50′	69°00′
NLSN3	40°28′	69°00′
NLSN4	40°28′	69°30′
NLSN1	40°50′	69°30′

TABLE 5—CLOSED AREA II-EAST CLOSED AREA

Point	N latitude	W longitude	Note
CAIIE1	41°30′	67°20′	
CAIIE2	41°30′	(1)′	(2)′
CAIIE3	41°00′	(3)′	(2)′
CAIIE4	41°00′	66°41′	
CAIIE5	41°11′	66°41′	
CAIIE6	41°11′	67°20′	
CAIIE1	41°30′	67°20′	

[1] The intersection of 41°30′ N lat. and the U.S.-Canada Maritime Boundary, approximately 41°30′ N lat., 66°34.73′ W long.
[2] From Point CAIIE2 connected to Point CAIIE3 along the U.S.-Canada Maritime Boundary.
[3] The intersection of 41°00′ N lat. and the U.S.-Canada Maritime Boundary, approximately 41°00′ N lat. and 66°09.33′ W long.

Extension of CAII Seasonal Closure To Mitigate Flatfish Bycatch

Framework 33 continues the extension of existing seasonal closure in CAII to reduce bycatch of northern windowpane flounder and Georges Bank yellowtail flounder. The seasonal closure in CAII occurs from August 15–November 15 of each year. Framework 32 to the Atlantic Sea Scallop FMP (85 FR 17754; March 31, 2020) extended that closure for 15 additional days from August 15-November 30 for the 2020 fishing year only. Framework 33 continues that 15-day extension for fishing year 2021.

Full-Time Limited Access Allocations and Trip Possession Limits for Scallop Access Areas

Table 6 provides the limited access full-time allocations for all of the access areas for the 2021 fishing year and the first 60 days of the 2022 fishing year. These allocations can be landed in as many trips as needed, so long as vessels do not exceed the possession limit (also in Table 6) on any one trip.

TABLE 6—SCALLOP ACCESS AREA FULL-TIME LIMITED ACCESS VESSEL POUNDAGE ALLOCATIONS AND TRIP POSSESSION LIMITS FOR 2021 AND 2022

Rotational access area	Scallop possession limit	2021 Scallop allocation	2022 Scallop allocation (default)
Closed Area II	18,000 lb (8,165 kg) per trip	27,000 lb (12,247 kg)	0 lb (0 kg)
Nantucket Lightship-South-Deep		27,000 lb (12,247 kg)	0 lb (0 kg)
Mid-Atlantic	18,000 lb (8,165 kg)	18,000 lb (8,165 kg).	
Total		72,000 lb (32,659 kg)	18,000 lb (8,165 kg)

Part-Time Limited Access Allocations and Trip Possession Limits for Scallop Access Areas

Table 7 provides the limited access part-time allocations for all of the access areas for the 2021 fishing year and the first 60 days of the 2022 fishing year. These allocations can be landed in as many trips as needed, so long as the vessels do not exceed the possession limit (also in Table 8) on any one trip.

TABLE 7—SCALLOP ACCESS AREA PART-TIME LIMITED ACCESS VESSEL POUNDAGE ALLOCATIONS AND TRIP POSSESSION LIMITS FOR 2021 AND 2022

Rotational access area	Scallop possession limit	2021 Scallop allocation	2022 Scallop allocation (default)
Closed Area II or Nantucket Lightship-South [1].	14,400 lb (6,532 kg) per trip	14,400 lb (6,532 kg)	0 lb (0 kg)
Mid-Atlantic		14,400 lb (6,532 kg)	7,200 lb (3,266 kg)
Total		28,800 lb (13,063 kg)	7,200 lb (3,266 kg)

[1] Part-time vessels must choose to take this trip in either Closed Area II or Nantucket Lightship-South-Deep. Once a vessel declares a trip into either area, the entirety of the 14,400-lb (6,532-kg) allocation can only be taken from the same area.

Closed Area I RSA-Only

Because of the limited amount of biomass in the CAI to support a full limited access trip, Framework 33 will not allocate any landings from CAI to the limited access fleet. CAI will only be available for the LAGC access area trips and RSA compensation fishing.

LAGC Measures

1. ACL and IFQ Allocation for LAGC Vessels with IFQ Permits. For LAGC vessels with IFQ permits, this action implements a 1,481-mt ACL for 2021 and a 1,360-mt default ACL for 2022 (see Table 1). These sub-ACLs have no associated regulatory or management requirements but provide a ceiling on overall landings by the LAGC IFQ fleets. The annual allocation to the LAGC IFQ-only fleet for fishing years 2021 and 2022 based on APL is 863 mt for 2021 and 648 mt for 2022 (see Table 1). Each vessel's IFQ is calculated from these allocations based on APL.

2. ACL and IFQ Allocation for Limited Access Scallop Vessels with IFQ Permits. For limited access scallop vessels with IFQ permits, this action implements a 148-mt ACL for 2021 and a default 136-mt ACL for 2022 (see Table 1). These sub-ACLs have no associated regulatory or management requirements but provide a ceiling on overall landings by this fleet. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. The annual allocation to limited access vessels with IFQ permits is 86 mt for 2021 and 65 mt for 2022 (see Table 1). Each vessel's IFQ is calculated from these allocations based on APL.

3. LAGC IFQ Trip Allocations for Scallop Access Areas. Framework 33 allocates LAGC IFQ vessels a fleet-wide number of trips in CAI, NLS–S–D, and MAAA for fishing year 2021 and default trips in the MAAA for fishing year 2022 (see Table 8). The scallop catch associated with the total number of trips for all areas combined (2,283 trips) for fishing year 2021 is equivalent to the 5.5 percent of total projected catch from access areas.

TABLE 8—FISHING YEARS 2021 AND 2022 LAGC IFQ TRIP ALLOCATIONS FOR SCALLOP ACCESS AREAS

Scallop access area	2021	2022 [1]
Closed Area I	856	0
Nantucket Lightship-South-Deep	856	0
Mid-Atlantic	571	571
Total	2,283	571

[1] The LAGC IFQ access area trip allocations for the 2022 fishing year are subject to change through a future specifications action or framework adjustment.

4. Northern Gulf of Maine (NGOM) Total Allowable Catch (TAC). This action implements a 175,000-lb (79,379-kg) NGOM TAC for fishing year 2021 and a 74,000-lb (33,566-kg) default NGOM TAC for fishing year 2022. The final rule for NGOM portions of Framework 29 (83 FR 12857; March 26, 2018) developed a methodology for splitting the NGOM TAC between the LAGC and the limited access fleets. Framework 33 continues splitting the TAC using this methodology. The limited access portion of the TAC may only be fished by vessels participating in the RSA program that are participating in a project that has been allocated NGOM RSA allocation. The LAGC portion of the TAC may be fished by NGOM and LAGC IFQ vessels on trips with a 200-lb (90.7-kg) possession limit until the TAC has been harvested. Table 12 describes the division of the TAC for the 2021 and 2022 (default) fishing years.

During the 2019 fishing year the LAGC fleet exceeded its portion of the NGOM TAC by 3,278 lb (1,487 kg). This triggers a pound-for-pound deduction to the LAGC portion of the NGOM TAC to account for the overage. Because final catch accounting data for the 2019 fishing year was not available in time to implement this deduction in the 2020 fishing year, the LAGC portion of the NGOM TAC for the 2021 fishing year is reduced by 3,278 lb (1,487 kg) to account for the overage. The resulting LAGC NGOM TAC is 119,222 lb (54,078 kg) and the total 2021 NGOM TAC is 171,722 lb (77,892 kg).

TABLE 9—NGOM TACS FOR FISHING YEAR 2021 AND 2022

Fleet	2021		2022 [1]	
	lb	kg	lb	kg
LAGC	119,222	54,078	72,000	32,659
Limited access	52,500	23,814	2,000	907
Total	171,722	77,892	74,000	33,566

[1]The NGOM TACs for the 2022 fishing year are subject to change through a future specifications action or framework adjustment.

5. Scallop Incidental Catch Target TAC. This action implements a 50,000-lb (22,680-kg) scallop incidental catch target TAC for fishing years 2021 and 2022 to account for mortality from vessels that catch scallops while fishing for other species and ensure that F targets are not exceeded. The Council and NMFS may adjust this target TAC in a future action if vessels catch more scallops under the incidental target TAC than predicted.

RSA Harvest Restrictions

This action allows vessels participating in RSA projects to harvest RSA compensation from the MAAA, NLS–S–D, CAII, CAII and the open area. All vessels are prohibited from harvesting RSA compensation pounds in all other access areas. Vessels are prohibited from fishing for RSA compensation in the NGOM unless the vessel is fishing an RSA compensation trip using NGOM RSA allocation that was awarded to an RSA project. Finally, Framework 33 prohibits the harvest of RSA from any access areas under default 2022 measures. At the start of 2022, RSA compensation may only be harvested from open areas. The Council will re-evaluate this default prohibition measure in the action that would set final 2022 specifications.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has preliminarily determined that this interim final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act and other applicable law.

We have examined the impacts of the interim final rule under Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Office of Management and Budget (OMB) has determined that this rule is economically significant, as defined by Executive Order 12866.

As analyzed in Section 6.6.1 Economic Impacts in the Scallop Fishery Management Plan Framework Adjustment 33 Final Submission (*https://www.nefmc.org/library/framework-33*), the costs of this rule are lost consumer and producer surplus resulting from a lower predicted catch in 2021 than predicted for 2020. We estimate a reduction in consumer and producer surplus of $104.1 million in $2020 in 2021. The benefits of this rule are to prevent overfishing and to minimize bycatch, helping to ensure the sustainability of fishery stocks and minimize adverse ecological impacts. Given data limitations, we are unable to quantify the benefits. The total catch may increase or decrease in future years due to necessary management changes. As noted in Table 1, the catch limits for the 2022 fishing year are subject to change through a future specifications action or framework adjustment. Incremental changes in total catch from year to year will be analyzed in future rulemakings to assess the relative costs and benefits of each action, consistent with E.O. 12866 and Circular A–4.

TABLE 1—SUMMARY OF BENEFITS, COSTS AND TRANSFERS OF INTERIM FINAL RULE IN MILLIONS OF $ 2020

Category	Estimate	Units	Notes
Benefits			
Monetized ..	0	2020$, mil.	
Quantified ...	0	Lbs, mil.	
Qualitative ..	Prevent overfishing and minimize bycatch in accordance with the Magnuson Stevens Act and governing Fishery Management Plan		
Costs			
Monetized ..	−104.1	2020$, mil	*Estimated annual reduction in Total Benefits stemming from Proposed Action, relative to TB estimated for prior fishing year (baseline).*
Quantified ...	−11.5	Lbs, mil	*Estimated annual reduction in catch from Proposed Action, relative to catch estimated for prior fishing year (baseline).*
Qualitative.			
Transfers			

TABLE 1—SUMMARY OF BENEFITS, COSTS AND TRANSFERS OF INTERIM FINAL RULE IN MILLIONS OF $ 2020—Continued

Category	Estimate	Units	Notes
Monetized ..	0	2020$, mil.	
Quantified ...	0	Lbs, mil.	
Qualitative ..	.....	.....	*No intra-industry transfers are predicted under the Proposed Action.*

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (the Congressional Review Act or CRA), 5 U.S.C. 801–808, the Office of Information and Regulatory Affairs has determined that this is a major rule. *See* 5 U.S.C. 804(2). The CRA's 60-day delay in the effective date for major rules is not applicable, however, because this rule establishes a regulatory program for a commercial activity related to fishing. *See* 5 U.S.C. 808(1).

The Assistant Administrator for Fisheries has determined that it is contrary to the public interest to provide for prior notice for this action. It is necessary to implement the measures of this rule in an expedited manner to achieve conservation objectives for the scallop fishery and certain fish stocks. Similarly, the need to implement these measures in a timely manner constitutes good cause, under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in the date of effectiveness and to make Framework 33 measures effective as soon as possible.

In the summer of 2020, due to the COVID–19 global pandemic, certain of the annual scallop surveys were delayed while others were canceled. Because of this, the Council had to delay final action on Scallop Framework 33 until its January 2021 meeting. The 2021 scallop fishing year began on April 1, 2021, and NMFS was unable to approve and implement final Framework 33 measures for the start of the fishing year. On April 1, default specifications went into place for the scallop fishery. Framework 32 set fishing year 2021 default specifications that were intentionally conservative.

Because most of the default specifications are more conservative than those that would be implemented in Framework 33, delaying the implementation of this action to allow prior notice and opportunity for public comment or a 30-day delay in effective date would be contrary to the public interest because it would cause the scallop fleet to lose the positive economic benefits of immediate implementation and could also negatively impact the access area rotation program by delaying fishing in access areas that should be available. There is good cause to immediately implement the rule rather than delay the effective date by 30-days because this action provides full-time vessels with an additional 6 DAS (24 DAS total) and 54,000 lb (24,494 kg) in access area allocations (72,000 lb (32,659 kg) total) to each full-time limited access vessel. Further, LAGC IFQ vessels will receive an additional 27-mt (950-mt total) allocation and 1,712 access area trips spread out across 3 access areas (2,283 trips total). Framework 33 could not have been put into place sooner to allow for a 30-day delayed effectiveness because the information and data necessary for the Council to develop the framework was not available in time for this action to be forwarded to NMFS and implemented by April 1, 2021, the beginning of the scallop fishing year. Additionally, because this rule relieves restrictions by increasing these allocations, it is not subject to the 30-day delayed effectiveness provision of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(d)(1).

This interim final rule is exempt from the procedures of the Regulatory Flexibility Act because prior notice and opportunity for public comment is not required.

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

List of Subjects 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: May 14, 2021.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEAST UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

Subpart A—General Provisions

■ 2. In § 648.14, revise paragraphs (i)(2)(vi)(B) and (i)(3)(v)(E) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(i) * * *

(2) * * *

(vi) * * *

(B) Transit the Closed Area II Scallop Rotational Area or the Closed Area II-East Scallop Rotational Area, as defined in § 648.60(d), unless there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

(3) * * *

(v) * * *

(E) Transit the Closed Area II Scallop Rotational Area or Closed Area II-East Scallop Rotational Area, as defined in § 648.60(d), unless there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

Subpart D—Management Measures for the Atlantic Sea Scallop Fishery

■ 3. In § 648.51, revise paragraph (f)(1) to read as follows:

§ 648.51 Gear and crew restrictions.

* * * * *

(f) * * *

(1) *Restrictions.* A vessel issued a limited access scallop permit fishing for scallops under the scallop DAS allocation program may not fish with, possess on board, or land scallops while in possession of a trawl net, unless such vessel has been issued a limited access trawl vessel permit that endorses the vessel to fish for scallops with a trawl net. A limited access scallop vessel issued a trawl vessel permit that endorses the vessel to fish for scallops with a trawl net and general category scallop vessels enrolled in the Area Access Program as specified in § 648.59, may not fish for scallops with a trawl net in the Closed Area 1, Closed Area II, Closed Area II-East, and Nantucket

Lightship-South-Deep Rotational Areas specified in § 648.60.

* * * * *

■ 4. In § 648.53, revise paragraphs (a)(8), (b)(3), and (c)(1) and (2) to read as follows:

§ 648.53 Overfishing limit (OFL), acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), annual projected landings (APL), DAS allocations, and individual fishing quotas (IFQ).

(a) * * *

(8) *Scallop fishery catch limits.* The following catch limits will be effective for the 2021 and 2022 fishing years:

TABLE 1 TO PARAGRAPH (a)(8)—SCALLOP FISHERY CATCH LIMITS

Catch limits	2021 (mt)	2022 (mt) [1]
OFL	45,392	41,926
ABC/ACL (discards removed)	30,517	28,074
Incidental Catch	23	23
RSA	567	567
Observer Set-Aside	305	281
ACL for fishery	29,622	27,203
Limited Access ACL	27,993	25,707
LAGC Total ACL	1,629	1,496
LAGC IFQ ACL (5 percent of ACL)	1,481	1,360
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	148	136
Limited Access ACT	24,260	22,279
APL (after set-asides removed)	17,269	(1)
Limited Access APL (94.5 percent of APL)	16,319	(1)
Total IFQ Annual Allocation (5.5 percent of APL) [2]	950	712
LAGC IFQ Annual Allocation (5 percent of APL) [2]	863	648
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) [2]	86	65

[1] The catch limits for the 2022 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2022 that will be based on the 2021 annual scallop surveys. The 2022 default allocations for the limited access component are defined for DAS in paragraph (b)(3) of this section and for access areas in § 648.59(b)(3)(i)(B).

[2] As specified in paragraph (a)(6)(iii)(B) of this section, the 2022 IFQ annual allocations are set at 75 percent of the 2021 IFQ Annual Allocations.

(b) * * *

(3) *DAS allocations.* The DAS allocations for limited access scallop vessels for fishing years 2021 and 2022 are as follows:

TABLE 2 TO PARAGRAPH (b)(3)—SCALLOP OPEN AREA DAS ALLOCATIONS

Permit category	2021	2022 [1]
Full-Time	24.00	18.00
Part-Time	9.60	7.20
Occasional	2.00	1.5

[1] The DAS allocations for the 2022 fishing year are subject to change through a future specifications action or framework adjustment. The 2022 DAS allocations are set at 75 percent of the 2021 allocation as a precautionary measure.

* * * * *

(c) * * *

(1) *Limited access AM exception.* If NMFS determines that the fishing mortality rate associated with the limited access fleet's landings in a fishing year is less than 0.39, the AM specified in paragraph (c) of this section shall not take effect. The fishing mortality rate of 0.39 is the fishing mortality rate that is one standard deviation below the fishing mortality rate for the scallop fishery ACL, currently estimated at 0.45.

(2) *Limited access fleet AM and exception provision timing.* The Regional Administrator shall determine whether the limited access fleet exceeded its sub-ACL, defined in paragraph (a)(5) of this section, by July of the fishing year following the year for which landings are being evaluated. On or about July 1, the Regional Administrator shall notify the New England Fishery Management Council of the determination of whether or not the sub-ACL for the limited access fleet was exceeded, and the number of landings in excess of the sub-ACL. Upon this notification, the Scallop Plan Development Team (PDT) shall evaluate the overage and determine if the fishing mortality rate associated with total landings by the limited access scallop fleet is less than 0.39. On or about September 1 of each year, the Scallop PDT shall notify the Council of its determination, and the Council, on or about September 30, shall make a recommendation, based on the Scallop PDT findings, concerning whether to invoke the limited access AM exception. If NMFS concurs with the Scallop PDT's recommendation to invoke the limited access AM exception, in accordance with the Administrative Procedure Act (APA), the limited access AM shall not be implemented. If NMFS does not concur, in accordance with the APA, the limited access AM shall be implemented as soon as possible after September 30 each year.

* * * * *

§ 648.56 [Amended]

■ 5. In § 648.56, remove paragraph (i).

■ 6. In § 648.59:

■ a. Revise paragraph (a)(2);

■ b. Lift the suspension of paragraphs (b)(3)(i)(B)(*1*)(*ii*) and (b)(3)(i)(B)(*2*)(*ii*);

■ c. Revise paragraph (b)(3)(i)(B);

■ d. Remove and reserve paragraph (b)(3)(ii)(A)(*2*);

■ e. Revise paragraph (b)(3)(ii)(B);
■ f. Lift the suspension of paragraph (c);
■ g. Revise paragraphs (c), (e), (g)(1), and (g)(3)(v); and
■ h. Remove paragraph (h).

The revisions read as follows:

§ 648.59 Sea Scallop Rotational Area Management Program and Access Area Program requirements.

(a) * * *

(2) *Transiting a Closed Scallop Rotational Area.* No vessel possessing scallops may enter or be in the area(s) specified in this section when those areas are closed, as specified through the specifications or framework adjustment processes defined in § 648.55, unless the vessel is transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Closed Area II Scallop Rotational Area or the Closed Area II-East Scallop Rotational Area, as defined in § 648.60(d), if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

(b) * * *

(3) * * *

(i) * * *

(B) The following access area allocations and possession limits for limited access vessels shall be effective for the 2021 and 2022 fishing years:

(*1*) *Full-time vessels.* (*i*) For a full-time limited access vessel, the possession limit and allocations are:

TABLE 1 TO PARAGRAPH (b)(3)(i)(B)(*1*)(i)

Rotational access area	Scallop possession limit	2021 Scallop allocation	2022 Scallop allocation (default)
Closed Area II	18,000 lb (8,165 kg) per trip	27,000 lb (12,247 kg)	0 lb (0 kg).
Nantucket Lightship-South-Deep	18,000 lb (8,165 kg) per trip	27,000 lb (12,247 kg)	0 lb (0 kg).
Mid-Atlantic	18,000 lb (8,165 kg) per trip	18,000 lb (8,165 kg)	18,000 lb (8,165 kg).
Total		72,000 lb (32,659 kg)	18,000 lb (8,165 kg).

(*ii*) [Reserved]

(*2*) *Part-time vessels.* (*i*) For a part-time limited access vessel, the possession limit and allocations are as follows:

TABLE 2 TO PARAGRAPH (b)(3)(i)(B)(*2*)(*i*)

Rotational access area	Scallop possession limit	2021 Scallop allocation	2022 Scallop allocation (default)
Closed Area II or Nantucket Lightship-South [1].	14,400 lb (6,532 kg) per trip	14,400 lb (6,532 kg)	0 lb (0 kg)
Mid-Atlantic	14,400 lb (6,532 kg) per trip	14,400 lb (6,532 kg)	7,200 lb (3,266 kg)
Total		28,800 lb (13,063 kg)	7,200 lb (3,266 kg)

[1] Part-Time vessels must choose to take this trip in either Closed Area II or Nantucket Lightship-South-Deep. Once a vessel declares a trip into either area, the entirety of the 14,400-lb (6,532-kg) allocation can only be taken from the same area.

(*ii*) [Reserved]

(*3*) *Occasional limited access vessels.* (*i*) For the 2021 fishing year only, an occasional limited access vessel is allocated 6,000 lb (2,722 kg) of scallops with a trip possession limit at 6,000 lb of scallops per trip (2,722 kg per trip). Occasional limited access vessels may harvest the 6,000 lb (2,722 kg) allocation from the Mid-Atlantic, Nantucket Lightship-South-Deep, or Closed Area II Access Area.

(*ii*) For the 2022 fishing year, occasional limited access vessels are allocated 1,500 lb (680 kg) of scallops in the Mid-Atlantic Access Area only with a trip possession limit of 1,500 lb of scallops per trip (680 kg per trip).

(ii) * * *

(B) *Part-time limited access vessels.* The owner of a vessel issued a part-time limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another part-time vessel's unharvested scallop pounds allocated into another scallop access area. These exchanges may be made only for the amount of the current trip possession limit, as specified in paragraph (b)(3)(i)(B)(*2*) of this section. For example, if the access area trip possession limit for part-time limited access vessels is 14,400 lb (6,532 kg), a part-time limited access vessel may exchange no more or less than 14,400 lb (6,532 kg), from one access area for no more or less than 14,400 lb (6,532 kg) allocated to another vessel for another access area. In addition, these exchanges may be made only between vessels with the same permit category: A full-time limited access vessel may not exchange allocations with a part-time vessel, and vice versa. Vessel owners must request these exchanges by submitting a completed Access Area Allocation Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Access Area Allocation Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has enough unharvested allocation remaining in a given access area to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the allocation exchange has been made effective. A part-time limited access vessel owner may exchange equal allocations up to the current possession limit between two or more vessels under his/her ownership. A vessel owner holding a Confirmation of Permit

History is not eligible to exchange allocations between another vessel and the vessel for which a Confirmation of Permit History has been issued.

* * * * *

(c) *Scallop Access Area scallop allocation carryover.* With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(2)(i)(J) for the entire fishing year preceding the carry-over year, a limited access scallop vessel may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days of the subsequent fishing year if the Scallop Access Area is open, unless otherwise specified in this section. However, the vessel may not exceed the Scallop Rotational Area trip possession limit. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Mid-Atlantic Access Area at the end of fishing year 2020, that vessel may harvest those 7,000 lb (3,175 kg) during the first 60 days that the Mid-Atlantic Access Area is open in fishing year 2021 (April 1, 2021 through May 30, 2021).

* * * * *

(e) *Sea Scallop Research Set-Aside Harvest in Scallop Access Areas.* Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified through a specifications action or framework adjustment and pursuant to § 648.56. The amount of scallops that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2021 and 2022 are:

(1) 2021: Mid-Atlantic, Nantucket Lightship-South-Deep, Closed Area I, and Closed Area II Scallop Rotational Areas.

(i) For fishing year 2021, vessels may only harvest RSA compensation from Closed Area II from June 1, 2021 through August 14, 2021.

(ii) [Reserved]

(2) 2022: No access areas.

* * * * *

(g) * * *

(1) An LAGC scallop vessel may only fish in the scallop rotational areas specified in § 648.60 or in paragraph (g)(3)(iv) of this section, subject to any additional restrictions specified in § 648.60, subject to the possession limit and access area schedule specified in the specifications or framework adjustment processes defined in § 648.55, provided the vessel complies with the requirements specified in paragraphs (b)(1), (2), and (6) through (9), (d), (e), (f), and (g) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85 and under multispecies DAS in the Closed Area I, Closed Area II, Closed Area II-East, and Nantucket Lightship-South-Deep Scallop Rotational Areas specified in § 648.60, when open, provided the vessel complies with the requirements specified in § 648.59 and this paragraph (g), but may not fish for, possess, or land scallops on such trips.

* * * * *

(3) * * *

(v) *LAGC IFQ access area allocations.* The following LAGC IFQ access area trip allocations will be effective for the 2021 and 2022 fishing years:

TABLE 3 TO PARAGRAPH (g)(3)(v)

Scallop access area	2021	2022 [1]
Closed Area I	856	0
Nantucket Lightship-South-Deep	856	0
Mid-Atlantic	571	571
Total	2,283	571

[1] The LAGC IFQ access area trip allocations for the 2022 fishing year are subject to change through a future specifications action or framework adjustment.

* * * * *

■ 7. In § 648.60:
■ a. Revised paragraph (b), (c), and (d);
■ b. Lift the suspension of paragraph (f);
■ c. Remove and reserve paragraph (f); and
■ d. Remove paragraph (i).

The revisions read as follows:

§ 648.60 Sea Scallop Rotational Areas.

* * * * *

(b) *Closed Area II Scallop Rotational Area*—(1) *Closed Area II Scallop Rotational Area boundaries.* The Closed Area II Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

TABLE 2 TO PARAGRAPH (b)(1)

Point	N latitude	W longitude	Note
CAII1	41°11′	67°20′	
CAII2	41°11′	66°41′	
CAII3	41°0′	66°41′	
CAII4	41°0′	(1)	(2)
CAII5	40°40′	(3)	(2)
CAII6	40°40′	67°20′	
CAII1	41°11′	67°20′	

[1] The intersection of 41°0′ N lat. and the U.S.-Canada Maritime Boundary, approximately 41°0′ N lat. and 66°09.33′ W long.
[2] From Point CAIISWE 4 connected to Point CAIISWE5 along the U.S.-Canada Maritime Boundary.
[3] The intersection of 40°40′ N lat. and the U.S.-Canada Maritime Boundary, approximately 40°40′ N lat. and 65°52.61′ W long.

(2) *Season.* (i) A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Closed Area II Scallop Rotational Area, defined in paragraph (b)(1) of this section, during the period of August 15 through November 15 of each year the Closed Area II Access

Area is open to scallop vessels, unless transiting pursuant to § 648.59(a).

(ii) For the 2021 scallop fishing year, a vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Closed Area II Scallop Rotational Area, defined in paragraph (b)(1) of this section, during the period of November 16 through November 30, unless transiting pursuant to § 648.59(a).

(c) *Closed Area I Scallop Rotational Area.* The Closed Area I Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

TABLE 3 TO PARAGRAPH (c)

Point	N latitude	W longitude
CAIA1	41°30′	68°30′
CAIA2	40°58′	68°30′
CAIA3	40°54.95′	68°53.37′
CAIA4	41°30′	69°23′
CAIA1	41°30′	68°30′

(d) *Closed Area II-East Scallop Rotational Area.* The Closed Area II-East Scallop Rotational Area is defined by straight lines, except where noted, connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

TABLE 4 TO PARAGRAPH (d)

Point	N latitude	W longitude	Note
CAIIE1	41°30′	67°20′	
CAIIE2	41°30′	(1)	(2)
CAIIE3	41°00′	(3)	(2)
CAIIE4	41°00′	66°41′	
CAIIE5	41°11′	66°41′	
CAIIE6	41°11′	67°20′	
CAIIE1	41°30′	67°20′	

[1] The intersection of 41°30′ N lat. and the U.S.-Canada Maritime Boundary, approximately 41°30′ N lat., 66°34.73′ W long.
[2] From Point CAIIE2 connected to Point CAIIE3 along the U.S.-Canada Maritime Boundary.
[3] The intersection of 41°00′ N lat. and the U.S.-Canada Maritime Boundary, approximately 41°00′ N lat. and 66°09.33′ W long.

* * * * *

■ 8. In § 648.62, revise paragraph (b)(1) and (2), (c), and (e) to read as follows:

§ 648.62 Northern Gulf of Maine (NGOM) Management Program.

* * * * *

(b) * * *

(1) The LAGC and the limited access portions of the annual hard TAC for the NGOM 2021 and 2022 fishing years are as follows:

TABLE 1 TO PARAGRAPH (b)(1)

Fleet	2021		2022 (default)	
	lb	kg	lb	kg
LAGC	119,222	54,078	72,000	32,659
Limited access	52,500	23,814	2,000	907
Total	171,722	77,892	74,000	33,566

(2) Unless a vessel has fished for scallops outside of the NGOM scallop management area and is transiting the NGOM scallop management area with all fishing gear stowed and not available for immediate use as defined in § 648.2, no vessel issued an LAGC or limited access scallop permit pursuant to § 648.4(a)(2) may possess, retain, or land scallops in the NGOM scallop management area once the Regional Administrator has provided notification in the **Federal Register** that the vessel's respective portion(s) of the NGOM scallop total allowable catch in accordance with paragraph (b)(1) of this section has been reached, unless the vessel is participating in the scallop RSA program as specified in § 648.56, has been allocated NGOM RSA pounds, and the limited access portion of the NGOM TAC has not been reached. Once the LAGC share of the NGOM TAC is reached, a vessel issued a NGOM permit may no longer declare a state-only NGOM scallop trip and fish for scallops exclusively in state waters within the NGOM, unless participating in the state waters exemption program as specified in § 648.54. A vessel that has not been issued a Federal scallop permit that fishes exclusively in state waters is not subject to the closure of the NGOM scallop management area.

* * * * *

(c) *VMS requirements.* Except scallop vessels issued a Federal scallop permit pursuant to § 648.4(a)(2)(i) that have declared a NGOM trip under the scallop RSA program, a vessel issued a scallop permit pursuant to § 648.4(a)(2) that intends to fish for scallops in the NGOM scallop management area or fishes for, possesses, or lands scallops in or from the NGOM scallop management area, must declare a NGOM scallop management area trip and report scallop catch through the vessel's VMS unit, as

required in § 648.10. If the vessel has a NGOM or IFQ permit, the vessel must declare either a Federal NGOM trip or a state-waters NGOM trip. If a vessel intends to fish any part of a NGOM trip in Federal NGOM waters, it may not declare into the state water NGOM fishery.

* * * * *

(e) *Stellwagen Bank Scallop Closed Area.* (1) Unless a vessel has fished for scallops outside of the Stellwagen Bank scallop management area and is transiting the area with all fishing gear stowed and not available for immediate use as defined in § 648.2, no vessel issued a Federal scallop permit pursuant to § 648.4(a)(2) may possess, retain, or land scallops in the Stellwagen Bank Scallop Closed Area.

(2) The Stellwagen Bank Scallop Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

TABLE 2 TO PARAGRAPH (e)(2)

Point	N latitude	W longitude
SB1	42°26′	70°27′
SB2	42°26′	70°15′
SB3	42°20′	70°15′
SB4	42°20′	70°27′
SB1	42°26′	70°27′

[FR Doc. 2021–10553 Filed 5–18–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 95
Wednesday, May 19, 2021

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 ENERGY

10 CFR Part 431

[EERE–2021–BT–TP–0007]

RIN 1904–AE67

Energy Conservation Program: Test Procedures for Certain Commercial and Industrial Equipment; Early Assessment Review: Refrigerated Bottled or Canned Beverage Vending Machines

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'' or ''the Department'') is undertaking an early assessment review to determine whether amendments are warranted for the test procedure for refrigerated bottled or canned beverage vending machines (''BVMs''). DOE has identified certain issues associated with the currently applicable test procedure on which DOE is interested in receiving comment. The issues outlined in this document mainly concern updates to industry standards, test setup and conditions, product rating temperature, energy consumption calculations, operating modes, alternate refrigerants, and connected functions. DOE welcomes written comments from the public on any subject within the scope of this document, including topics not raised in this request for information (''RFI'').

DATES: Written comments and information are requested and will be accepted on or before June 18, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2021–BT–TP–0007 and/or RIN 1904–AE67, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* to *BVM2021TP0007@ee.doe.gov.* Include docket number EERE–2021–BT–TP–0007 and/or RIN 1904–AE67 in the subject line of the message.

No telefacsimilies (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document (Submission of Comments).

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *http://www.regulations.gov/docket/EERE-2021-BT-TP-0007.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III of this document for information on how to submit comments through *http://www.regulations.gov.*

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For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

DOE established an early assessment review process to conduct a more focused analysis that would allow DOE to determine, based on statutory criteria, whether an amended test procedure is warranted. Title 10 of the Code of Federal Regulations (''CFR'') part 430 subpart C appendix A section 8(a). This RFI requests information and data regarding whether an amended test procedure would more accurately and fully comply with the requirement that the test procedure produce results that measure energy use during a representative average use cycle for the product, and not be unduly burdensome to conduct. To inform interested parties and to facilitate this process, DOE has identified several issues associated with the currently applicable test procedures on which DOE is interested in receiving

comment. Based on the information received in response to the early assessment RFI and DOE's own analysis, DOE will determine whether to proceed with a rulemaking for an amended test procedure.

If DOE makes an initial determination that an amended test procedure would more accurately or fully comply with statutory requirements, or DOE's analysis is inconclusive, DOE would undertake a rulemaking to issue an amended test procedure. If DOE makes an initial determination based upon available evidence that an amended test procedure would not meet the applicable statutory criteria, DOE would engage in notice and comment rulemaking before issuing a final determination that an amended test procedure is not warranted.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include BVMs, the subject of this document. (42 U.S.C. 6295(v)) [3]

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption in limited instances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d).

Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

If DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2))

In addition, EPCA requires that DOE amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption into the overall energy efficiency, energy consumption, or other energy descriptor, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission (''IEC''), unless the current test procedure already incorporates the standby mode and off mode energy consumption, or if such integration is technically infeasible. (42 U.S.C. 6295(gg)(2)(A)) If an integrated test procedure is technically infeasible, DOE must prescribe separate standby mode and off mode energy use test procedures for the covered product, if a separate test is technically feasible. (*Id.*)

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product, including BVMs, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (42 U.S.C. 6293(b)(1)(A)) If DOE determines, on its own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, DOE shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days. In prescribing or amending a test procedure, DOE shall take into account such information as DOE determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered product involved. (42 U.S.C. 6293(b)(2)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. DOE is publishing this RFI to collect data and information to inform its decision to satisfy the 7-year-lookback review requirement.

B. Rulemaking History

On July 31, 2015, DOE published a test procedure final rule (the ''July 2015 Final Rule'') that referenced updated industry test methods, improved clarity of the procedure, accounted for new equipment features, and reorganized the test procedure in 10 CFR part 431, subpart Q, appendix A (''Appendix A'') and 10 CFR part 431, subpart Q, Appendix B (''Appendix B''). The test procedure at Appendix B accounts for additional BVM operating modes and is mandatory for demonstrating compliance with the energy conservation standards in 10 CFR 431.296(b), which are required for BVMs manufactured on or after January 8, 2019. 80 FR 45758; *See also* 81 FR 1028 (January 8, 2016). The specific amendments in the July 2015 Final Rule included, for both Appendix A and

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] Because Congress included BVMs in Part A of Title III of EPCA, the consumer product provisions of Part A (rather than the industrial equipment provisions of Part A–1) apply to BVMs. DOE placed the regulatory requirements specific to BVMs in 10 CFR part 431, ''Energy Efficiency Program for Certain Commercial and Industrial Equipment'' as a matter of administrative convenience based on their type and will refer to BVMs as ''equipment'' throughout this document because of their placement in 10 CFR part 431. Despite the placement of BVMs in 10 CFR part 431, the relevant provisions of Title A of EPCA and 10 CFR part 430, which are applicable to all product types specified in Title A of EPCA, are applicable to BVMs. See 74 FR 44914, 44917 (Aug. 31, 2009) and 80 FR 45758, 45759 (Jul. 31, 2015). The regulatory provisions of 10 CFR 430.33 and 430.34 and subparts D and E of 10 CFR part 430 are applicable to BVMs. Because the procedures in Parts 430 and 431 for petitioning DOE for obtaining a test procedure waiver are substantively the same (79 FR 26591, 26601 (May 9, 2014)), the regulations for applying for a test procedure waiver for BVMs are those found at 10 CFR 431.401 rather than those found at 430.27.

Appendix B: (1) Updating the referenced test method to ANSI/ASHRAE Standard 32.1–2010,''Methods of Testing for Rating Vending Machines for Sealed Beverages,'' (''ANSI/ASHRAE Standard 32.1–2010''), (2) incorporating amendments to clarify several ambiguities in ANSI/ASHRAE Standard 32.1–2010, (3) eliminating the requirement to test at the 90-degree Fahrenheit (''°F'') ambient test condition, (4) clarifying the test procedure for combination vending machines, (5) clarifying the requirements for loading of BVMs under the DOE test procedure, (6) specifying the characteristics of a standard test package, (7) clarifying the average next-to-vend beverage temperature test condition, (8) specifying placement of thermocouples during the DOE test procedure, (9) establishing provisions for testing at the lowest application product temperature, (10) clarifying the treatment of certain accessories during the DOE test procedure, and (11) clarifying the certification and reporting requirements for covered BVMs. 80 FR 45758, 45760. The July 2015 Final Rule also incorporated amendments in Appendix B to account for the impact of low-power modes on the measured daily energy consumption (''DEC'') of BVMs. *Id.*

II. Request for Information

DOE is publishing this RFI to collect data and information during the early assessment review to inform its decision, consistent with its obligations under EPCA, as to whether the Department should proceed with an amended test procedure rulemaking, and if so, to assist in the development of proposed amendments. Accordingly, in the following sections, DOE has identified specific issues on which it seeks input to aid in its analysis of whether an amended test procedure for BVMs would more accurately or fully comply with the requirement that the test procedure produces results that measure energy use during a representative average use cycle for the product, and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) DOE also welcomes comments on other issues relevant to its early assessment that may not specifically be identified in this document.

A. Scope and Definitions

BVMs are commercial refrigerators (as defined at 10 CFR 431.62) that cool bottled or canned beverages and dispense the bottled or canned beverages on payment. 10 CFR 431.292. The defined equipment classes for BVMs include Class A, Class B, Combination A, and Combination B.

Class A means a BVM that is not a combination vending machine and in which 25 percent or more of the surface area on the front side of the beverage vending machine is transparent.

Class B means a BVM that is not considered to be Class A and is not a combination vending machine.

Combination A means a combination vending machine where 25 percent or more of the surface area on the front side of the beverage vending machine is transparent.[4]

Combination B means a combination vending machine that is not considered to be Combination A.

Combination vending machine means a BVM containing two or more compartments separated by a solid partition, that may or may not share a product delivery chute, in which at least one compartment is designed to be refrigerated, as demonstrated by the presence of temperature controls, and at least one compartment is not. 10 CFR 431.292.

Issue 1: DOE requests comment on whether the existing BVM and equipment class definitions require any further clarification. For example, DOE does not include a definition for the term ''dispense'' within the BVM definition. DOE requests information on whether it should define ''dispense'' to better differentiate between BVMs and other commercial refrigerators as defined in 10 CFR 431.62, and if so, DOE requests comment on what definition would be appropriate.

Issue 2: DOE requests comment on whether the current definition for combination vending machine adequately differentiates between fully refrigerated BVMs and BVMs designed to have both refrigerated and non-refrigerated compartments. For example, DOE seeks feedback on whether the presence of additional features (*e.g.,* refrigerated airflow as indicated by the presence of air ducts or air deflectors) should be included in the definition of combination vending machine to determine whether a compartment is refrigerated. DOE also requests comment on whether the term ''solid partition'' in the definition of combination vending machine needs further specificity, and if so, what should be stated to further specify the term.

Issue 3: DOE requests comment on whether any additional changes or clarifications are needed to the existing BVM equipment class definitions.

Issue 4: DOE requests information on whether any additional BVM categories exist within the current equipment classes that would require separate or additional test provisions. If such equipment is identified, DOE requests comment on how the scope of the existing test procedure should be expanded to include these machines and whether additional test procedures would be needed to provide representative test results of such equipment.

B. Test Procedure

DOE's current test procedure in Appendix B incorporates by reference ANSI/ASHRAE Standard 32.1–2010 and provides additional instructions and methods to address test setup, conduct, and calculations. The test procedure generally requires measuring BVM performance under stable conditions over a 24-hour test period, allowing the BVM to be in accessory low power mode for the final 6 hours of the test period,[5] if applicable. Section 2.2.3 and 2.2.4 of Appendix B. A default payment mechanism energy consumption value is added to the primary rated energy consumption per day.[6] Section 2.2.5.1 of Appendix B. If the BVM has refrigeration low power mode,[7] the measured energy consumption is reduced by a fixed percentage.[8] Section 2.3.2 of Appendix B. The test procedure also includes provisions for determining

[4] As provided in 10 CFR 429.134(j)(2), the determination of percent transparent surface does not include the surface area surrounding any compartments that are not designed to be refrigerated (as demonstrated by the presence of temperature controls), whether or not it is transparent.

[5] ''Accessory low power mode'' means a state in which a beverage vending machine's lighting and/or other energy-using systems are in low power mode, but that is not a refrigeration low power mode. Functions that may constitute an accessory low power mode may include, for example, dimming or turning off lights, but does not include adjustment of the refrigeration system to elevate the temperature of the refrigerated compartment(s). Section 1.2, Appendix B.

[6] Section 2.2.5.1 of Appendix B defines a default payment mechanism energy consumption of 0.20 kWh/day.

[7] ''Refrigeration low power mode'' means a state in which a beverage vending machine's refrigeration system is in low power mode because of elevation of the temperature of the refrigerated compartment(s). To qualify as low power mode, the unit must satisfy the requirements described in section 2.3.2.1 of Appendix B. Section 1.2, Appendix B.

[8] Section 2.3.2 of Appendix B specifies that for BVMs with a refrigeration low power mode, multiply the value determined in section 2.3.1 of Appendix B (which represents the sum of the default payment mechanism energy consumption value and the primary rated energy consumption per day) by 0.97 to determine the daily energy consumption of the unit tested. Section 2.3.2.1 of Appendix B provides a validation test method to verify the existence of a refrigeration low power mode.

refrigerated volume and vendible capacity. Section 3 of Appendix B.

1. Updates to Industry Standards

As discussed, DOE's BVM test procedure in Appendix B incorporates by reference ANSI/ASHRAE Standard 32.1–2010, which was the most current version of the industry standard available at the time of the July 2015 Final Rule. DOE specifically references section 3, ''Definitions''; section 4, ''Instruments''; section 5, ''Vendible Capacity''; section 6, ''Test Conditions''; section 7.1, ''Test Procedures—General Requirements''; and section 7.2, ''Energy Consumption Test'' of ANSI/ASHRAE Standard 32.1–2010. Appendix B includes some exceptions to these references, and in cases of conflict between Appendix B language and the requirements of ANSI/ASHRAE Standard 32.1–2010, the language in Appendix B takes precedence. See section 1 of Appendix B.

At the time of the July 2015 Final Rule analysis, DOE was aware of ongoing industry meetings to consider updates to ASHRAE Standard 32.1. DOE participated in those industry meetings and, to the extent possible, sought to align its test procedure with the expected updates to ASHRAE Standard 32.1. 80 FR 45758, 45762.

On February 2, 2017, ANSI and ASHRAE approved the latest version of Standard 32.1, ANSI/ASHRAE Standard 32.1–2017, ''Methods of Testing for Rating Vending Machines for Sealed Beverages,'' (''ANSI/ASHRAE Standard 32.1–2017'').

Many of the revisions included in ANSI/ASHRAE Standard 32.1–2017 harmonize the industry standard with the existing DOE test procedure. However, some substantive differences between DOE's test procedure at Appendix B and ANSI/ASHRAE Standard 32.1–2017 remain, notably the following:

(1) Section 2.2.4 of Appendix B contains provisions for testing accessory low power mode, and section 2.3.2 of Appendix B accounts for refrigeration low power mode; whereas ANSI/ASHRAE Standard 32.1–2017 contains no such provisions (and specifically prohibits operation in low-power mode during testing, per section 7.2.2.6.2).

(2) Section 2.1.3 of Appendix B provides instructions for testing BVMs that are not capable of maintaining an integrated average temperature of 36 °F ± 1 °F during the 24-hour test period; whereas ANSI/ASHRAE Standard 32.1–2017 contains no such provisions. See section II.B.5 for additional discussion of lowest application product temperatures.

(3) Section 2.2.1.4 of Appendix B specifies a ''standard product'' consisting of standard 12-ounce aluminum beverage cans filled with a liquid with a density of 1.0 grams per milliliter (''g/mL'') ± 0.1 g/mL at 36 °F; whereas ANSI/ASHRAE Standard 32.1–2017 specifies using a 33 percent propylene glycol/67 percent water solution. See section II.B.4 for additional discussion of standard product characteristics.

(4) Section 2.2.5.1 of Appendix B provides instructions for payment mechanisms that cannot be disconnected during testing (if the payment mechanism is not removed, Appendix B requires it to be in place but de-energized, or set to the lowest energy consuming state if it cannot be de-energized) and specifies a default payment mechanism energy consumption of 0.20 kWh/day; whereas ANSI/ASHRAE Standard 32.1–2017 contains no such provisions. See section II.B.6 for additional discussion of payment mechanisms.

(5) Section 2.2.3 of Appendix B requires energy management systems to be disabled and energy-saving features that cannot be disabled to be set to their most energy-consuming settings; whereas ANSI/ASHRAE Standard 32.1–2017 also requires that energy management systems be disabled, but does not address other energy-saving features that cannot be disabled.

(6) Sections 2.2.5.2 through 2.2.5.10 of Appendix B provide additional setup instructions regarding certain equipment accessories (*i.e.,* internal lighting; external customer display signs, lights, and digital screens; anti-sweat or other electric resistance heaters; condensate pan heaters and pumps; illuminated temperature displays; condensate filters; security covers; general purpose outlets; and crankcase heaters and other electric resistance heaters for cold weather); whereas ANSI/ASHRAE Standard 32.1–2017 provides instructions for only a subset of these accessories (*i.e.,* video screens and lighting).

(7) Section 2.2.2 of Appendix B prohibits routing thermocouple wires and other measuring equipment through the dispensing door; whereas ANSI/ASHRAE Standard 32.1–2017 contains no such prohibition (only that they be installed in a manner that does not affect energy performance).

(8) Section 2.3.3 of Appendix B provides rounding instructions on energy consumption results; whereas ANSI/ASHRAE Standard 32.1–2017 contains no such rounding instructions.

(9) ANSI/ASHRAE Standard 32.1–2017 provides an additional recovery test (to determine the product temperature recovery time of the BVM when loaded with product at a certain temperature) and a vend test (to determine how much cold product a BVM will deliver when bottles, cans, or other sealed packages are vended at a rate of two per minute, 3 hours after a half-full machine is refilled with product at a specified beverage temperature); whereas Appendix B contains no such tests. These tests assess product temperature recovery and vending performance but do not factor into the energy use measurement.

Issue 5: DOE requests comment on whether it should update its test procedure to incorporate by reference ANSI/ASHRAE Standard 32.1–2017.

Issue 6: DOE requests comment on whether any of the updates included in ANSI/ASHRAE Standard 32.1–2017 would affect measured energy consumption of BVMs, and if so, how. Specifically, DOE requests comment on the impact of any such changes to the representativeness of the measurements and the associated impact to test burden.

Issue 7: DOE also requests comment on the identified differences between the current DOE test procedure and ANSI/ASHRAE Standard 32.1–2017, including comment on which approach is more appropriate for testing BVMs, and why.

Issue 8: DOE requests comment on any known deficiencies in ANSI/ASHRAE Standard 32.1–2017 that DOE may consider addressing in any future amendments to the BVM test procedure.

2. Ambient Test Conditions

Section 2.1.2 of Appendix B requires testing and rating BVM performance in a 75 °F ambient temperature with a 45 percent relative humidity. Prior to the July 2015 Final Rule, the DOE test procedure incorporated by reference ANSI/ASHRAE Standard 32.1–2004, which included two ambient test conditions: 75 °F with a 45 percent relative humidity and 90 °F with a 65 percent relative humidity. However, compliance with DOE's energy conservation standard was determined based on performance at only the 75 °F with a 45 percent relative humidity test condition. In the July 2015 Final Rule, DOE removed the requirement to conduct testing at the 90 °F with a 65 percent relative humidity test condition. 80 FR 45758, 45764–45765.

During the rulemaking leading to the July 2015 Final Rule, DOE estimated that 18 percent of Class B and Combination B BVMs are installed outdoors. 80 FR 45758, 45765. DOE determined that, although these BVMs

would experience different ambient conditions than in the test procedure, it would not be feasible to test at all the conditions BVMs may experience in the field. *Id.* DOE determined that the 75 °F with a 45 percent relative humidity test condition provides a reasonable and comparable representation of energy performance for all BVMs. *Id.* In ANSI/ASHRAE Standard 32.1–2017, the 90 °F with a 65 percent relative humidity test condition for the energy consumption test was removed, and the standard designated the 75 °F with a 45 percent relative humidity test condition as the singular test condition.

If certain BVMs are specifically designed to operate in unique ambient conditions (*i.e.,* are intended for use only in the unique condition and are not optionally installed indoors, as are most BVMs), testing at a different ambient condition may better represent actual average energy use in the field.

Issue 9: DOE requests comment regarding specification of a single test condition of 75 °F with a 45 percent relative humidity. Specifically, DOE requests data on the number of BVMs that operate outdoors or in other unique environments, and the associated ambient conditions for those environments.

Issue 10: Additionally, DOE seeks information on how to identify and define outdoor BVMs that could be considered for additional or different test conditions. For example, DOE requests comment on whether BVMs that operate outdoors or in other unique environments have design characteristics that impact the measured energy consumption at a test condition of 75 °F with a 45 percent relative humidity. DOE requests comment on and data for the appropriate test methods to represent their energy consumption during average use (or if the existing test at 75 °F with a 45 percent relative humidity is representative), as well as the costs associated with those methods.

3. Test Procedure for Combination BVMs

As described in section II.A, DOE defines ''combination vending machine'' as a BVM containing two or more compartments separated by a solid partition, that may or may not share a product delivery chute, in which at least one compartment is designed to be refrigerated, as demonstrated by the presence of temperature controls, and at least one compartment is not. 10 CFR 431.292. Section 2.2.1.3 of Appendix B specifies that the non-refrigerated compartments of combination BVMs must not be loaded with any standard products or other vendible merchandise during testing. Sections 7.2.2.2 and 7.2.2.7 of ANSI/ASHRAE Standard 32.1–2017 require combination BVMs not to be loaded with any standard products, test packages, or other vendible merchandise in the non-refrigerated compartments, but that the non-refrigerated compartments be lighted as in normal operation.

The thermal mass of any items loaded into the non-refrigerated compartments (or lack of thermal mass for an unloaded compartment) of combination BVMs may affect the measured DEC. Additionally, the thermal mass of any merchandise stored in the non-refrigerated compartments can vary significantly depending on the type of merchandise loaded into the combination BVM. The current approach of requiring no load in the non-refrigerated compartments addresses the potential variability associated with this thermal load; however, DOE seeks feedback on whether requiring some load in the non-refrigerated compartments may better represent the average energy use of combination BVMs.

Issue 11: DOE requests comment on the typical thermal mass of merchandise loaded into the non-refrigerated compartments of combination BVMs and the potential impact of such a load on tested energy consumption.

4. Characteristics of the Standard Product

Section 2.2.1.4 of Appendix B specifies the standard products to be used for testing, which include the following: 12-ounce aluminum beverage cans filled with a liquid with a density of 1.0 grams per milliliter (''g/mL'') ±0.1 g/mL at 36 °F; or, for product storage racks that are not capable of vending 12-ounce cans, but are capable of vending 20-ounce bottles, 20-ounce plastic bottles filled with a liquid with a density of 1.0 g/mL ±0.1 g/mL at 36 °F; or, for product storage racks that are not capable of vending 12-ounce cans or 20-ounce bottles, the packaging and contents specified by the manufacturer in product literature as the standard product (*i.e.,* the specific merchandise the refrigerated bottled or canned beverage vending machine is designed to vend). In the July 2015 Final Rule, DOE discussed the possibility of considering other standard products, including slimline cans, milk cartons, aseptic packs, pouches, and energy drinks. 80 FR 45758, 45768. However, DOE determined that the standard product for BVMs not capable of vending 12-ounce cans or 20-ounce bottles is the product specified by the manufacturer in product literature. *Id.*

Vendible product types other than 12-ounce cans or 20-ounce bottles may now be used more frequently than at the time of the analysis leading to the July 2015 Final Rule. DOE may consider adding descriptions of such refrigerated beverage containers and contents if they are commonly used and have characteristics that can be defined for use across BVM manufacturers (*i.e.,* the standard product as described would not be applicable to only one BVM manufacturer).

Additionally, DOE is aware of certain BVMs that are marketed to vend both beverages and food, but do not contain a solid partition that separates the shelves or compartments intended for refrigerated bottled or canned beverages from those intended for other merchandise. Without a solid partition, these BVM models would not meet the definition of combination vending machine and would instead be classified as either Class A or Class B BVMs. If the non-beverage shelves of these BVMs are not capable of vending 12-ounce cans or 20-ounce bottles, the standard product for testing must be the packaging and contents specified by the manufacturer in product literature as the standard product per section 2.2.1.4 or Appendix B. DOE seeks information on whether to specify additional instructions for loading and measuring temperatures of such non-beverage packages to reduce test variability.

Issue 12: DOE requests comment on whether the currently defined standard products (*i.e.,* the products comprising the BVM test load) are representative of average BVM use.

Issue 13: DOE seeks feedback on whether any additional products should be defined as standard products for BVMs that are not capable of vending 12-ounce cans or 20-ounce bottles to limit variability in testing. If so, DOE requests data and information on the extent to which BVMs currently vend such products and the extent to which BVMs are stocked exclusively with such products (and no other non-standard products).

Issue 14: DOE also requests detailed descriptions of such products, including typical dimensions, materials, and contents, and any data showing whether different standard products affect measured energy use.

Issue 15: DOE requests feedback on the appropriate loading requirements for refrigerated shelves of BVMs that are designed to dispense merchandise other than bottled or canned beverages, including non-beverage merchandise. If these shelves should be loaded, DOE

requests feedback on the applicability of the standard product instructions specified in section 2.2.1.4 of Appendix B for these shelves and on the sensor placement instructions specified in section 2.2.2 of Appendix B.

As discussed in section II.B.1, section 7.1.5.1 of ANSI/ASHRAE Standard 32.1–2017 requires the beverage temperature test packages to be filled with a 33 percent propylene glycol/67 percent water solution. ANSI/ASHRAE Standard 32.1–2017 does not specify whether these glycol/water percentages are based on weight or volume. Section 5.1 of ANSI/ASHRAE Standard 32.1–2017 also specifies that standard sealed beverages are 12-ounce cans, 20-ounce bottles, or the sealed beverage specified by the manufacturer. Section 5.1 does not provide any other reference to the liquid in the containers.

Issue 16: DOE requests comment on whether the standard products or standard test packages as defined in Appendix B sections 2.2.1.4 and 2.2.1.5, respectively, require any further specifications. For example, in lieu of the existing density specifications, DOE seeks feedback on whether it should specify the contents of the test containers (*e.g.,* the 33 percent propylene glycol/67 percent water solution (and whether these percentages are based on weight or volume) as specified in section 7.1.5.1 of ANSI/ASHRAE Standard 32.1–2017).

5. Lowest Application Product Temperature

Section 2.1.1 of Appendix B requires that the integrated average temperature (''IAT'') of the BVM be 36 °F ± 1 °F over the test period. For BVMs that are designed to operate at temperatures higher than 36 °F and are not capable of maintaining an IAT at 36 °F ± 1 °F for testing, section 2.1.3 of Appendix B requires testing such equipment at its lowest application product temperature, defined as the lowest IAT the BVM is capable of maintaining at stable conditions.

In the July 2015 Final Rule, DOE stated that it would monitor its certification data and would take any necessary corrective actions if a significant portion of models are certified under the lowest application product temperature provisions. 80 FR 45758, 45773–45774. For any BVM tested and rated using the lowest application product temperature provisions in Appendix B, DOE requires that manufacturers include the temperature in their certification reports. 10 CFR 429.52(b)(2)(ii). DOE's compliance certification database [9] lists all BVM models certified to DOE, including the lowest application product temperature used for rating each model, if applicable. Of the 137 individual models included in the compliance certification database, 12 individual models (4 basic models) from one manufacturer are rated at lowest application product temperatures between 37.9 °F and 41.3 °F.[10] Models had previously been certified to DOE (and are not included in the current DOE compliance certification database) as being rated at a lowest application product temperature below the 36 ± 1 °F IAT range required in the DOE test procedure. For example, models from one manufacturer were previously rated at an IAT of 32 °F (indicating that those BVMs could not operate as warm as 36 ± 1 °F).

Issue 17: DOE requests comment on whether the lowest application product temperature provisions are appropriate for testing BVMs not capable of maintaining IAT of 36 °F ± 1 °F. If not, DOE requests comment on what test procedures would better represent energy consumption during average use for such equipment, including, for example, whether Appendix B should include additional IATs for rating BVMs.

Issue 18: DOE further requests comment on whether Appendix B should include additional instructions for testing those BVMs capable of maintaining temperatures only below the 36 °F ± 1 °F range (*e.g.,* testing such BVMs at the highest thermostat setting).

6. Payment Mechanisms

Section 2.2.5.1 of Appendix B requires testing BVMs with no payment mechanism in place, the payment mechanism in-place but de-energized, or the payment mechanism in place but set to the lowest energy consuming state, if it cannot be de-energized. A default payment mechanism energy consumption value of 0.20 kilowatt-hours per day (''kWh/day'') is added to the primary rated energy consumption per day, according to section 2.3 of Appendix B. In section 7.1.2.2. of ANSI/ASHRAE Standard 32.1–2017, payment mechanisms are required to be disconnected during testing.

DOE established the 0.20 kWh/day value based on a weighted average energy consumption of 25 different payment mechanisms available at the time of the July 2015 Final Rule. These included 11 coin mechanisms, 11 bill validators, and 3 credit card readers. 80 FR 45758, 45777.

Since the publication of the July 2015 Final Rule, the prevalence of different payment mechanisms for BVMs may have shifted. For example, credit card readers may be more common in the field compared to coin mechanisms or bill validators, or BVMs may incorporate all types of payment mechanisms. Based on the July 2015 Final Rule data, credit card readers had the highest daily energy consumption. If such a shift has occurred in the market, an amended payment mechanism energy adder may provide results that are more representative of average energy use. Additionally, if BVMs as sold or shipped now typically include payment mechanisms, a direct test of energy consumption rather than a fixed energy use adder may be more representative of average energy use.

Issue 19: DOE requests comment on whether BVMs are typically sold and shipped with payment mechanisms in place. If not, DOE requests information on the types of payment mechanisms typically installed on BVMs and their associated energy use.

Issue 20: DOE seeks feedback on whether the current 0.20 kWh/day energy use assigned to payment mechanisms is representative of the current BVM market.

7. Low Power Modes

Appendix B incorporates definitions and test requirements for two types of low power modes [11] (*i.e.,* accessory low power mode and refrigeration low power mode). Section 7.2.2.6.2 of ANSI/ASHRAE Standard 32.1–2017 requires that low power modes not be allowed to operate during testing.

In the July 2015 Final Rule, DOE acknowledged that the two types of low power modes incorporated into the test procedure (accessory low power mode and refrigeration low power mode) may not address all forms of low power modes available in the BVM market. DOE identified ''learning-based'' energy management controls that use historic sales and traffic data to predict times of high and low traffic; however, DOE did not propose a test procedure for such controls, as it would be difficult to develop a repeatable test procedure to evaluate the energy savings of such

[9] Available at *https://www.regulations.doe.gov/certification-data/CCMS-4-Refrigerated_Bottled_or_Canned_Beverage_Vending_Machines.html.*

[10] Compliance certification database data as accessed on February 6, 2021.

[11] ''Low power mode'' means a state in which a beverage vending machine's lighting, refrigeration, and/or other energy-using systems are automatically adjusted (without user intervention) such that they consume less energy than they consume in an active vending environment. Section 1.2, Appendix B.

controls during a 24-hour test in a laboratory. 80 FR 45758, 45786.

Issue 21: DOE requests comment on the availability of additional low power modes for BVMs, including any ''learning-based'' energy management controls. If such modes are available, DOE seeks data and information on the typical operating times and associated energy consumptions of BVMs in these modes.

Issue 22: DOE also seeks feedback on whether a test procedure to account for operation in these low power modes would better reflect the representative average energy use of BVMs, and if so, what would be the appropriate test methods as well as the associated test burden and costs.

a. Accessory Low Power Mode

Section 1.2 of Appendix B defines accessory low power mode as a state in which a BVM's lighting and/or other energy-using systems are in low power mode, but that is not a refrigeration low power mode. Functions that may constitute an accessory low power mode may include, for example, dimming or turning off lights, but does not include adjustment of the refrigeration system to elevate the temperature of the refrigerated compartment(s). Section 2.2.4 of Appendix B states that accessory low power mode may be engaged for the final 6 hours of the 24-hour test period and requires that the BVM be operated in the lowest energy-consuming lighting and control settings for testing this mode. Section 2.2.4 also requires that any automatic activation of refrigeration low power modes be prevented during the accessory low power mode test period.

The 24-hour test procedure starts after a BVM achieves stabilization as determined in vending mode. Because the test period ends with 6 hours of operation in accessory low power mode, when the mode is engaged for testing, the BVM would end the test in a different operating state than at the start of the test. Although the refrigeration system and cabinet temperatures would likely not change with operation in an accessory low power mode (because accessory low power mode does not include adjustment of the refrigeration system to elevate the temperature of the refrigerated compartment), some transient recovery period may be required for a BVM to return to stable operation in vending mode after operating in accessory low power mode for 6 hours. If such a recovery period exists, testing the accessory low power mode during the middle of the 24-hour test period may be more representative by capturing any transition periods between operating modes.

Issue 23: DOE requests comment on whether BVMs require any recovery period following operation in accessory low power mode to return to stable operation in vending mode. If so, DOE requests test data indicating the effect of such operating periods and seeks feedback on whether the accessory low power mode test period should occur at some other point during the 24-hour test period.

Issue 24: Additionally, DOE requests information regarding testing the accessory low power mode during a period other than at the end of the 24-hour test period, specifically on any potential drawbacks or test burdens that may result.

In the July 2015 Final Rule, DOE stated that BVMs may employ a variety of control strategies and control a variety of different components in accessory low power mode. 80 FR 45758, 45785. DOE established testing under the settings representing the maximum energy savings to avoid potential repeatability issues associated with identifying appropriate test control settings for BVMs with various types of accessory low power modes. *Id.*

Issue 25: DOE requests comment on the typical average duration a BVM operates in accessory low power mode per day, if applicable.

Issue 26: DOE also seeks information on the control settings users apply for accessory low power mode in the field (*i.e.,* whether the lowest energy consumption settings for lighting and controls are representative of average use in accessory low power mode).

Issue 27: DOE also requests comment on whether multiple accessory low power mode test settings may be appropriate for BVMs offering various control settings.

b. Refrigeration Low Power Mode

Section 1.2 of Appendix B defines refrigeration low power mode as a state in which a BVM's refrigeration system is in low power mode because of elevation of the temperature of the refrigerated compartment(s). Section 2.3.2.1 of Appendix B includes provisions for confirming the presence of a refrigeration low power mode, either through an increase in average next-to-vend beverage temperature or lack of compressor operation. Unlike accessory low power mode, Appendix B does not include a direct test of refrigeration low power mode. Instead, BVMs with refrigeration low power mode receive a 3-percent reduction in DEC as measured. Section 2.3.2 of Appendix B.

In the July 2015 Final Rule, DOE determined that a 3-percent energy reduction was more appropriate than a physical test of refrigeration low power mode because refrigeration low power modes are extremely variable in their control strategies and operation and may require instructions from the manufacturer to accommodate specific provisions of a physical test. DOE stated that a physical test would reduce consistency and repeatability and would make the method impractical to implement. 80 FR 45758, 45785.

DOE established the 3-percent credit for refrigeration low power mode by testing several BVMs with this mode.[12] DOE noted in the July 2015 Final Rule that this value is an average that is representative of the common types of refrigeration low power modes available in the marketplace. 80 FR 45758, 45786.

Issue 28: DOE requests comment on whether any amendments are needed to either the definition of refrigeration low power mode or the corresponding refrigeration low power mode validation test method.

Issue 29: DOE seeks feedback on whether any BVM operating modes exist that should be considered a refrigeration low power mode but cannot meet the current definition or validation test method (*e.g.,* operating modes with little or no increase in refrigerated compartment temperature with some amount of compressor operation).

Issue 30: DOE requests comment on the current approach of applying a 3-percent energy reduction for any BVMs determined to have a refrigeration low power mode. Specifically, DOE requests comment on whether a physical test to account for actual unit energy reduction associated with refrigeration low power mode is feasible, or whether any test method for such an approach currently exists, and on the burden associated with running such a test.

Issue 31: DOE requests comment on whether the 3-percent energy reduction is appropriate for BVMs with refrigeration low power mode. DOE seeks data on BVM operation in refrigeration low power mode, including the amount of time spent in such a mode and the associated energy consumption.

8. Reloading and Recovery Period

As stated in Section II.B.1, ANSI/ASHRAE Standard 32.1–2017 provides an additional recovery test (to determine the product temperature recovery time

[12] DOE described the method for determining the 3-percent credit in detail in the notice of proposed rulemaking that preceded the July 2015 Final Rule. 79 FR 46908, 46925–46926 (Aug. 11, 2014).

of the BVM when loaded with product at a certain temperature), whereas Appendix B contains no such test. This recovery test assesses product temperature recovery performance of the BVM but does not include a measurement of the corresponding energy consumption. Table 2 in ANSI/ASHRAE Standard 32.1–2017 lists the reloaded sealed-beverage temperature, 90 °F, and the final instantaneous average next-to-vend beverage temperature, 40 °F, for the recovery test. Additionally, Table 4 in ANSI/ASHRAE Standard 32.1–2017 lists the door open durations, between 10 and 20 minutes, required during the recovery test while reloading the BVM.

The existing DOE test procedure considers BVM performance only during stable operation (including any operation in accessory low power mode). During typical use, BVMs are regularly opened and restocked with warmer beverages. Accounting for BVM energy use during restocking periods and the subsequent product temperature recovery periods may better represent the actual energy use of BVMs during normal operation.

Issue 32: DOE requests comment and supporting data on whether BVM restocking and the subsequent product temperature recovery represent a significant energy consumption for BVMs relative to the existing test procedure.

Issue 33: DOE requests comment and supporting data regarding the applicability of the recovery test described in ANSI/ASHRAE Standard 32.1–2017 for measuring the energy consumption associated with restocking and product temperature recovery.

Issue 34: DOE requests comment and supporting data on the frequency and duration of door openings required to reload BVMs.

9. Alternate Refrigerants

In an April 10, 2015 final rule, the Environmental Protection Agency listed propane (R–290), isobutane (R–600a), and the hydrocarbon blend R–441A as acceptable refrigerants for use in BVMs, subject to a 150-gram charge limit per refrigeration circuit and other safety measures to address flammability. 80 FR 19454, 19491. Due to the flammability of these refrigerants, BVMs using hydrocarbon refrigerants may need to implement additional controls and components to mitigate the risk of ignition from any potential refrigerant leaks. The need for such controls also may vary depending on the intended installation location for BVMs.

DOE is interested in understanding what additional components and controls manufacturers may need to add to their equipment to transition to alternative refrigerants, including propane, and whether the test procedure requires any updates to account for any corresponding energy use. DOE's expectation is that such controls would always be active and would not require specific test procedure instructions; however, DOE requests information on whether multiple control settings are available for these components, and if so, what would be the representative test settings.

Issue 35: DOE requests comment on what additional components and controls manufacturers may need to add to their equipment when designing BVMs with alternative refrigerants and on the typical settings used for such components and controls, if multiple settings are available. DOE requests comment on whether any test procedure modifications are necessary to account for the energy consumption associated with these components and controls and any corresponding impact on testing burden.

10. Connected Functions

The current DOE test procedure for BVMs does not include test requirements specifically for connected or smart features. Section 2.2.5 of Appendix B generally requires all components necessary to provide sufficient functionality for cooling and vending products in field installations (*i.e.,* product inventory, temperature management, product merchandising (including, *e.g.,* lighting or signage), product selection, and product transport and delivery) to be in place during testing and set to the maximum energy-consuming setting if manually adjustable. Other components not necessary for such functionality are de-energized or set to their lowest energy consuming state.

Issue 36: DOE requests comment on the prevalence of connected functions in BVMs. DOE seeks information on what BVM functions are associated with these connected modes, how often they are used, and their corresponding impacts on energy use.

Issue 37: DOE also requests comment on whether the existing DOE test procedure instructions for accessories in section 2.2.5 of Appendix B adequately address test settings for connected functions in BVMs.

III. Submission of Comments

DOE invites all interested parties to submit in writing by the date specified in the **DATES** heading, comments and information on matters addressed in this RFI and on other matters relevant to DOE's early assessment of whether an amended test procedure for BVMs is warranted and if so, what such amendments should be considered.

Submitting comments via http://www.regulations.gov. The *http://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be

publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or via email at *ApplianceStandardsQuestions@ee.doe.gov.*

Signing Authority

This document of the Department of Energy was signed on May 12, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 13, 2021.

Treena V. Garrett,

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

[FR Doc. 2021–10448 Filed 5–18–21; 8:45 am]

BILLING CODE 6450–01–P

Notices

Federal Register
Vol. 86, No. 95
Wednesday, May 19, 2021

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

Agricultural Marketing Service

[Document No. AMS–TM–21–0041]

Meat and Poultry Interstate Shipment and Inspection Readiness Program; Request for Emergency Approval of a New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of emergency request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the U.S. Department of Agriculture (USDA), Agricultural Marketing Service's (AMS) intention to receive approval from the Office of Management and Budget (OMB) for a new information collection to administer the Meat and Poultry Interstate Shipment and Inspection Readiness Program (ISIRP) under its Grants Division. Due to the passing of the Consolidated Appropriations Act, 2021 (CAA), AMS Grants Division is implementing this new grant program under section 764, which directs the Secretary of Agriculture to ''make grants to meat and poultry slaughter and processing facilities to assist such facilities with respect to costs incurred in making improvements to such facilities and carrying out other planning activities in the amount of $60,000,000 for fiscal years 2021 through 2023.''

DATES: Submit comments on or before May 19, 2021.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by using the electronic process available at *www.regulations.gov.* Written comments may also be submitted to Grants Division; Transportation and Marketing Program; AMS; USDA; 1400 Independence Avenue SW, Room 2055–South Building, Stop 0201; Washington, DC 20250–0264. All comments should reference the docket number AMS–TM–21–0041, the date of submission, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, at *www.regulations.gov* and will be included in the record and made available to the public.

FOR FURTHER INFORMATION CONTACT: Nicole Nelson Miller, Deputy Director, Grants Division; (202) 720–2188 or email *Nicole.NelsonMiller@usda.gov.*

SUPPLEMENTARY INFORMATION:

Overview of This Information Collection

Agency: USDA, AMS.

Title: Meat and Poultry Interstate Shipment and Inspection Readiness Program (ISIRP).

OMB Number: 0581–NEW.

Type of Request: Emergency Approval of a New Information Collection.

Abstract: The Agricultural Marketing Act of 1946 (AMA) (7 U.S.C. 1621 *et seq.*) directs and authorizes USDA to administer Federal grant programs. AMS Grant Programs are administered through the Office of Management and Budget (OMB) Guidance for Grants and Agreements based on its regulations under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (85 FR 49506; December 13, 2020). The information collection requirements in this emergency request are needed for AMS to administer a new competitive grant program, in accordance with 2 CFR part 200, entitled the Meat and Poultry Interstate Shipment and Inspection Readiness Program (ISIRP) under OMB No. 0581–NEW.

ISIRP is authorized pursuant to the authority of section 764 of the Consolidated Appropriations Act, 2021 (CAA) (Pub. L. 116–260) in response to the ongoing COVID–19 pandemic and supply chain risks in U.S. meat and poultry processing systems. The AMS Grants Division requests to collect information for this new grant program from meat and poultry slaughter and processing facilities to support facilities in making improvements and carrying out other planning activities necessary to obtain a Federal grant of inspection or to operate as a State-inspected facility under the Cooperative Interstate Shipping Program.

Because this is a voluntary program, respondents request or apply for this specific competitive grant, and in doing so, they provide information. The information collected is used only by authorized representatives of USDA, AMS, Transportation and Marketing Program's Grants Division to certify that grant participants are complying with applicable program regulations, and the data collected is the minimum information necessary to effectively carry out the program requirements.

The information collection requirements in this request are essential to carry out the intent of section 764 of the CAA, to provide the respondents the type of service they request, and to administer the program.

Upon OMB approval of the ISIRP information collection package, AMS will request OMB approval to merge this information collection into the currently approved information collection OMB control number 0581–0240 approved on January 13, 2021.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 hours and 5 minutes per response.

Respondents: Grant applicants; or grant recipients.

Estimated Number of Respondents: 4,350.

Estimated Total Annual Responses Including Recordkeeping: 7,350.

Estimated Number of Responses per Respondent: 29.

Estimated Total Annual Burden on Respondents and Recordkeepers: 15,363.17 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the new collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Obtaining OMB's approval of this new information collection enables AMS Grants Division to publish a Request for Applications (RFA) to establish application requirements, the review and approval process, and grant administration procedures, which will enable eligible entities to develop appropriate grant applications for the program so that AMS can adequately evaluate these new proposals and obligate the funds as required by the CAA.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2021–10490 Filed 5–18–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comments Requested

May 13, 2021.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: 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 these information collections are best assured of having their full effect if received by June 18, 2021. 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.

Agricultural Marketing Service

Title: Agritourism Directory.

OMB Control Number: 0581-New.

Summary of Collection: Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), AMS is responsible for conducting research to enhance market access for small and medium sized farmers. The role of the Marketing Services Division (MSD) of AMS is to facilitate distribution of U.S. agricultural products. The division identifies marketing opportunities, provides analysis to help take advantage of those opportunities and develops and evaluates strategies including methods to diversify farming operations of direct from farm-to-customer enterprises.

Definitions are listed below for the following terms used by AMS for the purposes of the Agritourism Directory: Agritourism directory, a working farm, ranch, aquaculture and agroforestry.

An agritourism directory is a list of working farms, ranches, aquaculture and agroforestry operations that provide education and recreation opportunities, active-involvement experiences (*e.g.,* farming activities, processing), as well as retailing and hospitality (*e.g.,* accommodations, dining) facilities and services for the enjoyment of visitors that generate supplemental income, create and grow farm product markets *i.e.,* for local foods, and build understanding of agriculture.

A working farm, ranch, aquaculture or agroforestry operation is defined as an area of land and buildings, or water (ponds, lakes, rivers, oceans), including within and around cities, that is currently being utilized to raise and grow domesticated animals, plants, trees, and freshwater and marine fish and shellfish, for food and beverages, including vegetables, fruits, herbs, meats, dairy products, oils, cereals, fish and shellfish, and products for direct sales to customers, and/or immediate consumption or enjoyment of customers, that are grown or processed there (*e.g.,* Christmas trees, pinyon seeds, ginseng, wool, wine, beer, cheeses, nursery plants).

This information will be used to build an agritourism directory describing the characteristics of agritourism operations on working farms.

Need and Use of the Information: The data from this information collection will be used to build a web-based directory and describe the characteristics of agritourism enterprises in the United States. This directory will provide free advertisement to operators of agritourism enterprises and prospective customers as a service to the sector. There are no research objectives of this information collection. The agritourism directory will be utilized by individual customers seeking to learn more about farming operations and we anticipate will be utilized by various USDA agencies, State Departments of Agriculture, extension educators, industry stakeholders and trade associations.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 10,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 33.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–10505 Filed 5–18–21; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Notice of Request for Emergency Extension

May 12, 2021.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Department of Agriculture (USDA) has submitted a request to the Office of Management and Budget (OMB) for a three-month emergency extension of the following information collection: ICR 0570–0067, Rural Energy for America Program (REAP). The requested extension would enable the collection to remain active while USDA completes the pending PRA renewal process. No changes are being made to the reporting and recordkeeping requirements.

Rural Business–Cooperative Service

Title: Rural Energy for America Program.

OMB Control Number: 0570–0067.

Summary of Collection: The PRA renewal process for this information collection is ongoing. To ensure that OMB approval of the current information collection remains active during the PRA renewal process, USDA has submitted a request to the OMB for a short-term emergency extension, to August 31, 2021.

On May 11, 2021 the Director, Regulations Management Division Innovation Center, Rural Development, USDA signed a memorandum to the Administrator of the Office of

Information and Regulatory Affairs, OMB. The memorandum included a request for an emergency extension, explained the USDA's justification for an extension, and was electronically submitted to OMB on May 12, 2021.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–10399 Filed 5–18–21; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 13, 2021.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (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; 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 June 18, 2021 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.

Rural Utilities Service

Title: 7 CFR 1726, Electric System Construction Policies and Procedures—Electric.

OMB Control Number: 0572–0107.

Summary of Collection: The Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.,* as amended, (RE ACT) in Sec. 4 (7 U.S.C. 904) authorizes and empowers the Administrator of the Rural Utilities Service (RUS) to make loans in the several States and Territories of the United States for rural electrification and the furnishing and improving of electric energy to persons in rural areas. These loans are for a term of up to 35 years and are secured by a first mortgage on the borrower's electric system. In the interest of protecting loan security and accomplishing the statutory objective of a sound program of rural electrification, Section 4 of the RE Act further requires that RUS make or guarantee a loan only if there is reasonable assurance that the loan, together with all outstanding loans and obligations of the borrower, will be repaid in full within the time agreed. RUS will collect information using various RUS forms.

Need and Use of the Information: RUS will collect information to implement certain provisions of the RUS standard form of loan documents regarding the borrower's purchase of materials and equipment and the construction of its electric system by contract or force account. The use of standard forms and procurement procedures helps assure RUS that appropriate standards and specifications are maintained; agency loan security is not adversely affected; and loan and loan guarantee funds are used effectively and for the intended purposes. The information will be used by RUS electric borrowers, their contractors and by RUS. If standard forms were not used, borrowers would need to prepare their own documents at a significant expense; and each document submitted by a borrower would require extensive and costly review by both RUS and the Office of the General Counsel.

Description of Respondents: Not-for-profit institutions; Business or other for-profit.

Number of Respondents: 827.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 82.

Title: 7 CFR 1780, Water and Waste Disposal Loan and Grant Program.

OMB Control Number: 0572–0121.

Summary of Collection: The Rural Utilities Service (''RUS''), an agency of the Rural Development (''RD''), United States Department of Agriculture, is requesting OMB clearance of the reporting requirements relating to 7 CFR part 1780, the regulation utilized to administer the Water and Waste Loans and Grants program. In addition, RUS is seeking clearance for applicants applying under 7 CFR 1777, Section 306C Water and Waste Disposal Loans and Grant,'' and 7 CFR 1778, ''Emergency Community Water Assistance Grants'', which follow 7 CFR 1780 for application requirements.

Section 306 of the Consolidated Farm and Rural Development Act (''CONACT''), 7 U.S.C. 1926, authorizes RUS to make loans and grants to public entities, federally-recognized American Indian tribes, and not-for-profit corporations. The loans and grants fund the development of drinking water, wastewater, solid waste disposal, and storm wastewater disposal facilities in rural areas with populations of up to 10,000 residents. A rural area is defined in the CONACT as any city, town, or unincorporated area consisting of no more than 10,000 residents. In addition to the development costs, 7 CFR 1780.9, Eligible loan and grant purposes, defines the associated costs that are eligible for reimbursement, such as reasonable engineering and legal expenses. The agency uses information submitted by applicant entities to determine eligibility and evaluate project feasibility.

Need and Use of the Information: RD state and field offices collect the information from applicants, borrowers, and consultants. They use the information to determine applicant eligibility and project feasibility. They also use the information to ensure that borrowers operate on a sound basis and use the loan and grant funds for authorized purposes as defined in statute and regulation.

Description of Respondents: State, Local or Tribal Government; Not-for-profit institutions.

Number of Respondents: 896.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 156,339.

Title: Servicing of Water Programs Loans and Grants.

OMB Control Number: 0572–0137.

Summary of Collection: Authority for servicing of Water Programs Loan and Grants is contained in Section 306e of the Consolidated Farm and Rural Development Act, as amended. The information collected covers loan and grant servicing regulations, 7 CFR part 1782, which prescribes policies and responsibilities for servicing actions necessary in connection with Water and

Environmental Programs (WEP) loans and grants. WEP provides loans, guaranteed loans and grants for water, sewer, storm water, and solid waste disposal facilities in rural areas and towns of up to 10,000 people.

Need and Use of the Information: The Rural Utilities Service will collect information using various forms. The Agency provides forms and/or guidelines to assist in collection and submission of the information required to service loans and grants. In some cases, use of Agency forms is optional and the borrower may submit the information required on other forms. The Agency utilizes existing Rural Development forms to the greatest extent possible to continue to meet the needs of the program. The forms or related items completed by the borrower are submitted to and evaluated by the Agency servicing office. The information, mostly financial in nature, is required to determine if borrowers, based on their individual situations, qualify for the various servicing authorities.

Description of Respondents: Business or other for-profit; non-profit institutions; State and local governments.

Number of Respondents: 304.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 654.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–10503 Filed 5–18–21; 8:45 am]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Kentucky Advisory Committee; Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; correction to meeting time.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** of Thursday, May 6, 2021, concerning a meeting of the Kentucky Advisory Committee. The document contained an incorrect meeting time.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez at *bdelaviez@usccr.gov* or (202) 539–8246.

CORRECTION: In the **Federal Register** of Thursday, May 6, 2021, in FR Doc. 2021–09532, on pages 24378–24379, correct the time to read: Wednesday, May 19, 2021 at 12:30 p.m. EST.

Dated: May 13, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–10472 Filed 5–18–21; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Kansas Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Kansas Advisory Committee (Committee) will hold a meeting via web conference on, May 20, 2021 at 12:00 p.m. Central Time. The purpose of the meeting is for the committee to discuss voting rights topics of concern in the state. The committee will also hear from guest speakers on the topic.

DATES: The meetings will be held on:

- Thursday, May 20, 2021, at 12:00 p.m. Central Time

https://civilrights.webex.com/civilrights/j.php?MTID=mee2733fbbe1517e89423cc002856c338

or Join by phone: 800–360–9505 USA Toll Free, Access code: 199 907 2934

FOR FURTHER INFORMATION CONTACT: David Barreras, Designated Federal Officer, at *dbarreras@usccr.gov* or (202) 499–4066.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call-in number. An open comment period will be provided to allow members of the public to make a statement as time allows. 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. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to David Barreras at *dbarreras@usccr.gov.*

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Kansas 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 Unit at the above email or street address.

Agenda

I. Welcome & Roll Call
II. Chair's Comments
III. Guest Speakers
IV. Committee Discussion
V. Next Steps
VI. Public Comment
VII. Adjournment

Dated: May 14, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–10513 Filed 5–18–21; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[4/22/2021 through 5/6/2021]

Firm name	Firm address	Date accepted for investigation	Product(s)
3P Processing, LLC	1702 South Knight Street, Wichita, KS 67213.	4/28/2021	The firm provides metal processing services, including coating and anodizing services.
Morris Bean & Company	777 East Hyde Road, Yellow Springs, OH 45387.	4/28/2021	The firm manufactures miscellaneous aluminum parts.
Schutte-Buffalo Hammermill, LLC	61 Depot Street, Buffalo, NY 14206.	5/3/2021	The firm manufactures industrial machinery for shredding, crushing, and grinding.
United Steel, Inc.	164 School Street, East Hartford, CT 06108.	5/5/2021	The firm manufactures structural steel columns.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.8 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Bryan Borlik,

Director.

[FR Doc. 2021–10554 Filed 5–18–21; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–39–2021]

Foreign-Trade Zone (FTZ) 27—Boston, Massachusetts; Notification of Proposed Production Activity; Wyeth Pharmaceuticals, LLC (mRNA Bulk Drug Substance); Andover, Massachusetts

Wyeth Pharmaceuticals, LLC (Wyeth) submitted a notification of proposed production activity to the FTZ Board for its facility in Andover, Massachusetts. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 13, 2021.

The Wyeth facility is located within Subzone 27R. The facility is used for the production of mRNA bulk drug substance. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished product described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Wyeth from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Wyeth would be able to choose the duty rate during customs entry procedures that applies to mRNA bulk drug substance (duty rate—6.5%). Wyeth would be able to avoid duty on foreign-status materials/components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials and components sourced from abroad include: 2-Hexyldecanoic Acid; 4-Amino-1-Butanol; 2,2,6,6-Tetramethylpiperidine-1-Oxyl; ATP—adenosine 5′-triphosphate; CTP—cytidine 5′-triphosphate; GTP—guanosine 5′-triphosphate; Proteinase K; T7 RNA Polymerase; EAM1104L enzyme; and, Ribolock Rnase-Free (Animal Origin Free) (duty rate ranges from duty-free to 6.5%). The request indicates that certain materials/components are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is June 28, 2021.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: May 13, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–10514 Filed 5–18–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–991]

Chlorinated Isocyanurates From the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Countervailing Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On May 6, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Clearon Corporation et al* v. *United States,* Consol. Court No. 17–00171, sustaining the Department of Commerce (Commerce)'s final remand results pertaining to the administrative review of the countervailing duty (CVD) order on chlorinated isocyanurates (chlorinated isos) from the People's Republic of China (China) covering the period February 4, 2014, through December 31, 2014. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the countervailable subsidy rate assigned to Heze Huayi Chemical Co., Ltd. (Heze Huayi).

DATES: Applicable May 17, 2021.

FOR FURTHER INFORMATION CONTACT: Justin Neuman, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0486.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 2017, Commerce published its *Final Results* in the 2014 CVD administrative review of chlorinated isos from China.[1] In the *Final Results,* Commerce determined that the use of adverse facts available (AFA) under sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), was warranted in determining the countervailability of the Export Buyer's Credit Program, because the Government of China (GOC) had failed to provide the necessary information Commerce required to analyze the program.[2] Commerce also determined that it could not rely on statements of non-use provided by the respondents and their customers because of the GOC's failure to provide the necessary information with respect to the operation of the program.[3] Consistent with Commerce's CVD AFA hierarchy, Commerce selected the highest calculated rate for the same or similar program as the AFA rate for this program, 0.87 percent, in accordance with section 776(d) of the Act and Commerce's established practice.[4] Commerce calculated a total net subsidy rate of 1.91 percent for Heze Huayi.[5]

Heze Huayi appealed Commerce's *Final Results.* On January 25, 2019, Commerce's rate selection for the Export Buyer's Credit Program was sustained by the CIT in *Clearon I.*[6] However, in *Clearon I,* the CIT also remanded the *Final Results* to Commerce with four specific instructions: (1) Explain why certain requested information ''is necessary to make a determination of whether the 'manufacture, production, or export' of {Heze Huayi's} merchandise has been subsidized, pursuant to {section 701(a) of the Act},'' and ''{i}n doing so, Commerce shall tie its inquiries to {Heze Huayi}, its products, and/or its customers;'' (2) ''either provide an adequate answer relating to why the information it seeks 'to fully understand the operation of the program' fills a gap as to {Heze Huayi's} products and their sale, or rely on the information it has on the record;'' (3) ''comply with the statute by tying its facts available and adverse facts available determinations to Heze Huayi, its products, or its customers;'' and (4) ''support with substantial evidence its necessary conclusion that there were gaps in the record evidence that could only be filled with the GOC's responses to its questionnaires.'' [7]

In its first remand redetermination, issued in May 2019, Commerce continued to find that, without the information that the GOC withheld about the operation of the Export Buyer's Credit Program, the use of facts available was required because ''necessary'' information was missing from the record, under section 776(a) of the Act.[8] Commerce further found that the application of an adverse inference was justified because the GOC failed to cooperate with Commerce's information requests to ''the best of its ability.'' [9] Using AFA, Commerce thus determined that Heze Huayi used and benefitted from the Export Buyer's Credit Program, and we continued to use 0.87 percent as the AFA rate for the program.[10] In response to the CIT's instruction, Commerce explained why it was necessary to know whether the China Export Import Bank uses third-party banks to disburse/settle export buyer's credits, stating that conducting ''a thorough verification of Heze Huayi's customers' nonuse of this program without understanding the identity of these correspondent banks would be unreasonably onerous, if not impossible.'' [11]

In October 2020, the CIT again remanded Commerce's decision with respect to the Export Buyer's Credit Program.[12] The CIT noted that it had previously rejected Commerce's position that information about the operation of the Export Buyer's Credit Program is necessary for it to verify a respondent's claimed non-use of the program.[13] The CIT remanded Commerce's decision for a second time, instructing Commerce and Heze Huayi ''to confer and jointly devise a procedure . . . by which {Commerce} can conduct verification of the declarations of non-use.'' [14] Alternatively, the CIT stated that Commerce may find, based on existing record evidence, ''that neither {Heze Huayi} nor its customers used or received a benefit under the program.'' [15]

In its final remand redetermination, issued in January 2021, Commerce found, under respectful protest,[16] that there was no use of the Export Buyer's Credit Program with respect to Heze Huayi in this review and removed the subsidy rate for the Export Buyer's Credit Program from Heze Huayi's final CVD subsidy rate, resulting in a 1.04 percent rate for Heze Huayi.[17] On May 6, 2021, the CIT sustained Commerce's final redetermination.[18]

Timken Notice

In its decision in *Timken,*[19] as clarified by *Diamond Sawblades,*[20] the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's May 6, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Heze Huayi as follows:

Company	Subsidy rate (percent *ad valorem*)
Heze Huayi Chemical Co., Ltd	1.04

[1] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review; 2014,* 82 FR 27466 (June 15, 2017) (*Final Results*), and accompanying Issues and Decision Memorandum.

[2] *Id.* at Comment 2.

[3] *Id.*

[4] *Id.*

[5] *See Final Results,* 82 FR at 27467.

[6] *See Clearon Corp.* v. *United States,* 359 F. Supp. 3d 1344, 1361–62 (CIT 2019) (*Clearon I*).

[7] *Id.,* 359 F. Supp. 3d at 1363.

[8] *See Final Results of Redetermination Pursuant to Court Remand, Clearon Corp.* v. *United States,* Court No. 17–00171, Slip Op. 19–13, dated May 16, 2019 at 38 and Comment 2, *https://enforcement.trade.gov/remands/19-13.pdf.*

[9] *Id.* at 29–30.

[10] *Id.* at 40.

[11] *Id.* at 27–28.

[12] *See Clearon Corp.* v. *United States,* Court No. 17–00171, Slip-Op. 20–141, (CIT 2020).

[13] *Id.* at 20 (citing *Guizhou Tyre Co.* v. *United States,* 348 F. Supp. 3d 1261, 1270 (CIT 2018)).

[14] *Id.*

[15] *Id.*

[16] *See Viraj Group, Ltd.* v. *United States,* 343 F.3d 1371, 1376 (Fed. Cir. 2003).

[17] *See Final Results of Redetermination Pursuant to Court Remand, Clearon Corp.* v. *United States,* Court No. 17–00171, Slip Op. 20–141, dated January 4, 2021, at 9, available at *https://enforcement.trade.gov/remands/20-141.pdf.*

[18] *See Clearon Corp.* v. *United States,* Consol. Court No. 17–00171, Slip Op. 21–56 (CIT 2021).

[19] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[20] *See Diamond Sawblades Manufacturers Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Cash Deposit Requirements

Because Heze Huayi has a superseding cash deposit rate, *i.e.,* there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: Were produced and/or exported by Heze Huayi, and were entered, or withdrawn from warehouse, for consumption during the period February 4, 2014, through December 31, 2014. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess countervailing duties on unliquidated entries of subject merchandise produced and/or exported by Heze Huayi in accordance with 19 CFR 351.212(b). We will instruct CBP to assess countervailing duties on all appropriate entries covered by this review when the *ad valorem* rate is not zero or *de minimis.* Where an *ad valorem* subsidy rate is zero or *de minimis,*[21] we will instruct CBP to liquidate the appropriate entries without regard to countervailing duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: May 14, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–10675 Filed 5–18–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB096]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Navy Construction at Naval Station Newport, Rhode Island

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take small numbers of marine mammals incidental to construction activities including bulkhead replacement and pile driving activities at Naval Station Newport over the course of 5 years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than June 18, 2021.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be sent by electronic mail to *ITP.Egger@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments must not exceed a 25-megabyte file size, including all attachments. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Stephanie Egger, Office of Protected Resources, NMFS, (301) 427–8401. An electronic copy of the Navy's application 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 above.

SUPPLEMENTARY INFORMATION:

Background

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 issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

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

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

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

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

In May 2020, NMFS received an application from the Navy requesting authorization for take of marine mammals incidental to construction activities including bulkhead replacements and repairs at Naval Station Newport. NMFS reviewed the Navy's application, and the Navy provided responses to NMFS' questions and comments on February 22, 2021. The requested regulations would be valid for 5 years, from 2022 through 2027. The Navy plans to conduct necessary work, including impact and vibratory pile driving, to repair and replace bulkheads. The proposed action may incidentally expose marine mammals occurring in the vicinity to elevated levels of underwater sound, potentially resulting in incidental take,

[21] *See* 19 CFR 351.106(c)(2).

by Level A and Level B harassment. Therefore, the Navy requests authorization to incidentally take marine mammals.

Specified Activities

The Navy proposes to replace or repair several sections of deteriorating, unstable, hazardous, and eroding bulkhead, sheet pile, and revetment (approximately 2,730 total linear feet) along the Coddington Cove waterfront of Naval Station Newport in Newport Rhode Island. Over time, the existing storm sewer systems and bulkheads along the Coddington Cove waterfront have severely degraded due to erosion from under-capacity stormwater system piping and aging infrastructure. This impacts the ability of the installation to minimize shoreline erosion and safety risks from associated upland subsidence while maintaining potential berthing space. The Navy expects construction will require approximately 222 non-consecutive in-water pile driving workdays over the 5 year period. Seven species of marine mammals have been observed in the area and have the potential to be taken by the Navy's activities.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the Navy, if appropriate.

Dated: May 14, 2021.

Catherine Marzin,

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

[FR Doc. 2021–10569 Filed 5–18–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB077]

Gulf of Mexico 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 Gulf of Mexico (GMFMC) and South Atlantic Fishery Management (SAFMC) Councils will hold a joint workgroup for Section 102 for the Modernizing Recreational Fisheries Management Act of 2018.

DATES: The meeting will convene on Thursday, June 3, 2021, from 2 p.m. to 4 p.m., EDT.

ADDRESSES: The meeting will take place via webinar.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; *ryan.rindone@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Thursday, June 3, 2021; 2 p.m.–4 p.m.

The meeting will begin with introductions, adoption of agenda, approval of minutes from the September 10, 2020, webinar meeting and review the Scope of Work. The Workgroup will receive a presentation on and discuss the National Marine Fisheries Services (NMFS) Allocation and Use of $3.5m Budgeted for the Modern Fish Act of 2018. The Workgroup will then receive a presentation on the flexibility under the Magnuson-Stevens Act for Alternative Management Approaches; and finally, will discuss recommendations to the Councils on Alternative Recreational Management Approaches.

The Workgroup will receive Public Comment and discuss any other business items.

—Meeting adjourns.

The meeting will be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the Workgroup meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.or*g as they become available.

Although other non-emergency issues not on the agenda may come before the Workgroup for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Workgroup will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take-action to address the emergency.

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

Dated: May 14, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–10564 Filed 5–18–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Solicitation of Nominations for the Marine Debris Foundation Board of Directors

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of solicitation of nominations.

SUMMARY: The National Oceanic and Atmospheric Administration is seeking nominations of qualified candidates to be considered for appointment as a member of the Marine Debris Foundation Board of Directors (Board). The Board shall consist of 13 Directors, including the Under Secretary of Commerce for Oceans and Atmosphere.

DATES: Nominations to the Board of Directors for the Marine Debris Foundation must be received in entirety no later than 11:59 p.m. EDT on June 30, 2021. Nomination packages received after this time will not be considered.

ADDRESSES: All nominations should be emailed (recommended) to *marinedebris.foundation@noaa.gov* with the subject line ''Marine Debris Foundation Nomination'', or mailed to Caitlin Wessel, Marine Debris Foundation Nomination, c/o NOAA Disaster Response Center, 7344 Ziegler Blvd., Mobile, AL 36608.

FOR FURTHER INFORMATION CONTACT: Caitlin Wessel, Ph.D., Phone 251–222–0276; Email *caitlin.wessel@noaa.gov* or visit the NOAA Marine Debris Program website at *https://marinedebris.noaa.gov/who-we-are/marine-debris-foundation.*

SUPPLEMENTARY INFORMATION: On December 18, 2020 the passage of the Save Our Seas (SOS) 2.0 Act established the Marine Debris Foundation (Foundation) as a charitable and nonprofit organization. The purposes of the Foundation include encouraging, accepting, and administering private gifts of property for the benefit of, or in connection with, the activities of the National Oceanic and Atmospheric Administration (NOAA) under the

Marine Debris Act, 33 U.S.C. 1952, and other relevant agencies; conducting activities that will augment NOAA's efforts to address marine debris; participating with and assisting other governments, entities, and individuals in addressing marine debris; and supporting other activities related to marine debris.

NOAA is searching for twelve people to serve as Directors on the new Foundation's governing Board of Directors (Board). The Board shall represent diverse points of view relating to the assessment, prevention, reduction, and removal of marine debris. Expertise is being sought in the following categories: (1) The assessment, prevention, reduction, or removal of marine debris, which may include an individual with expertise in post-consumer materials management or a circular economy; (2) the assessment, prevention, reduction, or removal of marine debris outside the United States; (3) ocean and coastal resource conservation science or policy; (4) international perspectives on marine debris, including expertise in trade agreements, treaties, or foreign policy; and (5) fundraising and nonprofit management.

Responsibilities of the Board: The major responsibilities of the Board of Directors will include, but are not necessarily limited to, the following:

1. Appoint officers and employees consistent with the provisions of the SOS 2.0 Act; adopt a constitution and bylaws consistent with the purposes of the Foundation and the provisions of the SOS 2.0 Act; elect a Chair for a two-year term; and undertake such other acts as may be necessary to complete the organization of the Foundation.

2. Prepare for, attend, and participate in Board meetings at least once a year.

3. Ensure effective organizational planning, including a business plan and other governing documents, to ensure effective governance of the Foundation.

4. Facilitate the Foundation's encouragement, acceptance, and administration of private gifts of property to ensure adequate resources to conduct the business of the Foundation.

5. Actively participate in fundraising, identify prospective donors, and support the fundraising program.

6. Manage resources effectively to support the purposes of the Foundation.

7. Maintain the annual budget.

8. Fulfill all responsibilities of the Board as provided in the SOS 2.0 Act.

9. Hire and evaluate annually a chief operating officer who shall be knowledgeable and experienced in matters relating to the assessment, prevention, reduction, and removal of marine debris.

10. Sign an annual conflict of interest disclosure.

11. Provide a report at the end of each fiscal year to Congress as required under the SOS 2.0 Act.

Required Selection Criteria: The Under Secretary of Commerce for Oceans and Atmosphere, with the approval of the Secretary of Commerce, shall appoint twelve Directors who meet the criteria established by the SOS 2.0 Act, of whom: At least four shall be educated or experienced in the assessment, prevention, reduction, or removal of marine debris, which may include an individual with expertise in post-consumer materials management or a circular economy; at least two shall be educated or experienced in the assessment, prevention, reduction, or removal of marine debris outside the United States; at least two shall be educated or experienced in ocean and coastal resource conservation science or policy; and at least two shall be educated or experienced in international trade or foreign policy. The Directors shall be appointed from among individuals who are United States citizens. The SOS 2.0 Act directs the Under Secretary to appoint these twelve Directors after consulting with the Administrator of the Environmental Protection Agency, the Director of the U.S. Fish and Wildlife Service, the Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs, and the Administrator of the U.S. Agency for International Development.

Additional Selection Criteria: NOAA seeks nominees with one or more of the following areas of expertise: Fundraising, finance, accounting, nonprofit or foundation law, human resources, management, research, and politics. Nominees should demonstrate one or more of the following competencies: Strategic leadership; vision and mission development; networking; governance; communications; public relations; marketing; justice, equity, diversity, and inclusion; and understanding community needs. NOAA seeks nominees representing diverse experiences, including gender, culture, education, career stage, geography, sector, and other considerations, in alignment with Department of Commerce equal opportunity policies (Department Administrative Order 215–3). Candidates should be willing to contribute to a diverse, equitable, and inclusive Board. All nominations will be fully considered, and qualified candidates need to be aware of the specific representation sought as outlined in the required selection criteria.

Term Length and Additional Restrictions: The initial Board of Directors will be appointed with staggered term lengths. Four Directors will be appointed for a term of six years; four Directors will be appointed for a term of four years; and four Directors will be appointed for a term of two years. Directors shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties to the Foundation. Appointment as a Director of the Foundation shall not constitute employment by, or the holding of an office of, the United States for the purpose of any Federal law.

Candidates Should Submit the Following Items: The following items are required parts of the nomination package:

1. Completed Nomination Form (PDF, can be downloaded at *https://marinedebris.noaa.gov/who-we-are/marine-debris-foundation*).

2. Current resume, including: Complete contact information (telephone numbers, email address, mailing address); career sector (*e.g.,* federal, state, industry, nonprofit, etc.); education history; work history and related experience; honors and awards; activities and hobbies; and skills. No more than two pages in length, saved as a .doc or .docx file.

3. Statement of Interest, including: A description of the candidate's qualifications; diversity statement (should include how the candidate will contribute to a diverse, equitable, and inclusive Board); fundraising statement (should include candidate's past experiences with fundraising and how they will contribute to a robust fundraising program for the Foundation); list of required selection criteria met and a short summary of how the candidate meets the specified criteria; list of additional selection criteria met and a short summary of how the candidate meets the specified criteria; and why the candidate would be a good fit for the Board. No more than four pages in length, saved as a .doc or .docx file.

4. At least one letter of recommendation, but no more than three, saved as a .pdf file. Letters should be no longer than two pages in length and demonstrate the candidate's qualifications.

Nominations may be submitted by the candidate themselves, or by the person/organization recommending the

candidate. If submitted by someone other than the candidate, the nomination package should include a signed statement from the candidate agreeing to be nominated. Incomplete applications will not be considered.

Additional information about the solicitation of nominations for the Marine Debris Foundation Board of Directors can be found at *https://marinedebris.noaa.gov/who-we-are/marine-debris-foundation.*

(Authority: Pub. L. 116–224, 112, Dec. 18, 2020, 134 Stat. 1072)

Scott Lundgren,

Director, Office of Response and Restoration, National Ocean Service.

[FR Doc. 2021–10571 Filed 5–18–21; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB097]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Highly Migratory Species Management Team (HMSMT) is holding an online meeting, which is open to the public.

DATES: The online meeting will be held Thursday and Friday, June 3 and 4, 2021. On Thursday, June 3 the meeting will begin at 9 a.m. and continue until 12 p.m. On Friday, June 4 the meeting will begin at 9 a.m. and continue until business is completed.

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

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

FOR FURTHER INFORMATION CONTACT: Kit Dahl, Staff Officer, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The HMSMT will discuss the contents and production of the HMS Stock Status and Fishery Evaluation (SAFE) document. The SAFE document is provided online on the Council's website at *https://www.pcouncil.org/safe-documents-2/* and periodically updated with information on HMS fisheries, management of fisheries, and the status of stocks. At this meeting, the HMSMT will particularly focus on methods to provide data on commercial and recreational fisheries and consider topics that need to be expanded or added to the SAFE document.

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

Special Accommodations

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

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

Dated: May 14, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–10565 Filed 5–18–21; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

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

DATES: Comments must be submitted on or before June 18, 2021.

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

In addition to the submission of comments to *https://Reginfo.gov* as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') by clicking on the ''Submit Comment'' box next to the descriptive entry for OMB Control No. 3038–0095, at *https://comments.cftc.gov/FederalRegister/PublicInfo.aspx.*

Or by either of the following methods:

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

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

[1] 17 CFR 145.9.

required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Tom Guerin, Counsel, Division of Data, Commodity Futures Trading Commission, (202) 418–5000; email: *tguerin@cftc.gov,* and refer to OMB Control No. 3038–0095.

SUPPLEMENTARY INFORMATION:

Title: Large Trader Reporting for Physical Commodity Swaps, (OMB Control No. 3038–0095). This is a request for extension of a currently approved information collection.

Abstract: Part 20 of the Commission's regulations (''Reporting Rules'') requires clearing organizations and any persons that are ''reporting entities'' to file swaps position data with the Commission. The Reporting Rules require each clearing organization to submit clearing member reports to the Commission. The Reporting Rules also require each reporting entity to submit position reports to the Commission that indicate the reporting entity's principal and counterparty positions in cleared and uncleared physical commodity swaps. Reporting entities are persons that are either ''clearing members'' or ''swap dealers'' that are otherwise not clearing members. For purposes of part 20, reporting parties are required to submit data on positions on a futures equivalent basis so as to allow the Commission to assess a trader's market impact across differently structured but linked derivatives instruments and markets. This renewal updates the total requested burden based on available reported data.

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. On February 24, 2021, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 86 FR 11267 (''60-Day Notice''). The Commission did not receive any comments on the 60-Day Notice.

Burden Statement: The Commission is revising its estimate of the burden for this collection. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 5,088.

Estimated Average Burden Hours per Respondent: 12.86.

Estimated Total Annual Burden Hours: 65,412.

Frequency of Collection: On Occasion.

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

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

Dated: May 14, 2021.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2021–10558 Filed 5–18–21; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Programmatic Environmental Assessment for the Fielding of the Maneuver—Short Range Air Defense Capability

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army (Army) announces the availability of the Programmatic Environmental Assessment (PEA), the Draft Finding of No Significant Impact (FONSI), and the Draft Finding of No Practicable Alternative (FONPA) for the proposed fielding of the Maneuver—Short Range Air Defense (M–SHORAD) battalion. In accordance with the National Environmental Policy Act (NEPA), the PEA analyzes the potential environmental and socioeconomic impacts, associated with construction, live-fire and maneuver training, and increased number of soldiers required to field the M–SHORAD battalion. The Proposed Action would address efforts to improve the protection of tactical maneuver forces from current and future aerial threats.

DATES: Comments must be received by June 18, 2021 to be considered in the preparation of the PEA.

ADDRESSES: Please send written comments to U.S. Army Environmental Command, ATTN: IM–SHORAD Public Comments, 2455 Reynolds Rd., Mail Stop 112, JBSA-Fort Sam Houston, Texas 78234–7588 or email comments to *usarmy.jbsa.aec.nepa@mail.mil* with M–SHORAD Public Comments as the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Cathryn Kropp, U.S. Army Environmental Command, Public Affairs Office at *usarmy.jbsa.aec.mbx@mail.mil,* by mail to U.S. Army Environmental Command, ATTN: Public Affairs, 2455 Reynolds Rd., Mail Stop 112, JBSA-Fort Sam Houston, Texas 78234–7588, or by phone at 443–243–0313, 210–792–6683, or toll-free at 855–846–3940.

SUPPLEMENTARY INFORMATION: The M–SHORAD system and associated battalion addressed in this PEA is a key component of Air and Missile Defense modernization. Maneuvering formations require air defense capabilities to counter air threats. The M–SHORAD capability and the associated air defense artillery battalions will improve air defenses available to the maneuver commander.

The primary warfighting component of the M–SHORAD battalion will be the IM–SHORAD capability provided by about 40 Stryker vehicles modified to the M–SHORAD configuration. The Proposed Action would assign approximately 550 soldiers, 310 tactical vehicles, and associated equipment to as many as three of the six assessed installations. Installations assessed are Fort Bliss, Fort Hood, Fort Riley, Fort Stewart, Fort Carson, as well as a smaller training organization at Fort Sill. There is a potential to require construction of office and maintenance space, barracks, and training ranges over a period of approximately 5 years, depending on facilities already available at the installations.

The PEA analyzes the potential environmental and socioeconomic impacts associated with the Proposed Action, including direct, indirect, and cumulative effects. The analysis includes minimization measures, standard operating procedures, and best management practices routinely employed by the installations to reduce potential adverse effects of the Proposed Action.

The Army identified one reasonable Action Alternative that would meet the purpose of and need for the Proposed Action: Field M–SHORAD units to installations at which the unit can be accommodated within planned or existing temporary or permanent infrastructure and training can be accomplished through live fire or approved simulations. Training requirements can also be met through flexible scheduling as facilitated by the Army's Sustainable Readiness Model or the Regionally Aligned Readiness and Modernization Model. Within this alternative, the PEA analyzes six different installations.

The Army also carried forward the No Action Alternative for detailed analysis in the PEA. While the No Action Alternative would not satisfy the purpose of or need for the Proposed Action, this Alternative was retained to provide a comparative baseline against which to analyze the effects of the Action Alternative as required under the Council on Environmental Quality's NEPA Regulations.

Resources analyzed in the PEA include air quality, airspace, biological resources, cultural resources, soils, land use and compatibility, socioeconomics, traffic and transportation, facilities, and water resources.

Based on the analysis presented in the PEA, effects of the Proposed Action are expected to be negligible, minor, or less than significant.

The Action Alternative may adversely impact wetlands and/or 100-year floodplains at Fort Riley and Fort Stewart. Accordingly, the Army has also prepared a Draft FONPA to comply with Executive Order (E.O.) 11988, *Floodplain Management,* and E.O. 11990, *Protection of Wetlands.* As described in the PEA, environmental protection measures (*e.g.,* buffers from heavy maneuver training and construction best management practices) and regulatory compliance measures (*e.g.,* permitting under Sections 401 and 404 of the Clean Water Act) would be implemented to minimize adverse impacts on these resources.

Government agencies, Native American Tribes, and the public are invited to review and comment on the PEA. The public comment period begins with the publication of this Notice of Availability in the **Federal Register** and will last for 30 days. The PEA, Draft FONSI, and Draft FONPA are available to the public on the U.S. Army Environmental Command web page at *https://aec.army.mil/index.php?cID=352.* If you cannot access the PEA online, please submit a request to the U.S. Army Environmental Command at *usarmy.jbsa.aec.mbx@mail.mil* or via mail at U.S. Army Environmental Command, ATTN: Public Affairs, 2455 Reynolds Rd., Mail Stop 112, JBSA-Fort Sam Houston, TX 78234–7588.

Following the public comment period, the Army will consider all public comments and prepare a Final FONSI or Notice of Intent to prepare an Environmental Impact Statement, and a Final FONPA applying to Fort Riley and Fort Stewart only, prior to making any decision regarding the Proposed Action. Comments must be received or postmarked by June 18, 2021 to be considered during decision-making process.

James W. Satterwhite Jr.,

Army Federal Register Liaison Officer.

[FR Doc. 2021–10502 Filed 5–18–21; 8:45 am]

BILLING CODE 5061–AP–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0019]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2022 School Survey on Crime and Safety (SSOCS:2022)

AGENCY: Institute of Educational Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before June 18, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: 2022 School Survey on Crime and Safety (SSOCS:2022).

OMB Control Number: 1850–0761.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 11,623.

Total Estimated Number of Annual Burden Hours: 4,907.

Abstract: The School Survey on Crime and Safety (SSOCS) is a nationally representative survey of elementary and secondary school principals that serves as the primary source of school-level data on crime and safety in public schools, and was conducted in 2000, 2004, 2006, 2008, 2010, 2016, 2018, and 2020 (OMB #1850–0761). Four years separated the first two collections of SSOCS to allow for sufficient time to study the results of the first survey and to allow for necessary redesign work; the next three collections were conducted at 2-year intervals. Due to a reorganization of the sponsoring agency (the Office of Safe and Drug-Free Schools) and funding issues, the 2012 administration of SSOCS, although approved by OMB, was not fielded. With new funding available through the National Institute of Justice (NIJ), SSOCS was conducted again in the spring of the 2015–16 school year. With continued dedicated funding, SSOCS has resumed collection on a biennial basis, with collections during the spring of the 2017–18 and the 2019–20 school years, and the next planned collection during the spring of the 2021–22 school year.

SSOCS is a survey of public schools covering the topic of school crime and violence and is designed to produce nationally representative data on public schools. Historically, it has been conducted by mail, with telephone and email follow-up; however, as an experiment, an internet version was fielded during the SSOCS:2018 administration. For SSOCS:2020, the internet version was initially offered to all respondents, with the paper version sent via mail as a follow-up, and the same methodology will be used for SSOCS:2022. The respondent is the school principal, or a member of the school staff designated by the principal as the person ''the most knowledgeable about school crime and policies to provide a safe environment.''

The 2022 survey is being funded by the U.S. Department of Education's Office of Safe and Supportive Schools (previously known as the Office of Safe and Healthy Students) and conducted by the National Center for Education Statistics (NCES) of the Institute of Education Sciences (IES), within the U.S. Department of Education. As with prior SSOCS collections, NCES has entered into an interagency agreement with the Census Bureau to administer the 2022 collection.

This request is to conduct the 2022 administration of the School Survey on Crime and Safety (SSOCS). As part of SSOCS:2022 development, cognitive testing on new COVID–19 pandemic items will be conducted during the winter and spring of 2021, scheduled to be completed in late-spring 2021. The wording and design of these items may be modified in response to the findings of this testing and, as such, will be updated in a change request, tentatively scheduled for October 2021.

Dated: May 13, 2021.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–10500 Filed 5–18–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–58–000]

Southwestern Public Service Company, Public Service Company of Colorado, Southwest Power Pool, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On April 22, 2021, the Commission issued an order in Docket No. EL21–58–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation into whether Southwestern Public Service Company and Public Service Company of Colorado's recovery of Advanced Grid Intelligence and Security costs in their wholesale rates may be warranted as unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful. *Southwestern Public Service Company,* 175 FERC ¶ 61,060 (2021).

The refund effective date in Docket No. EL21–58–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL21–58–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2020), within 21 days of the date of issuance of the order.

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 FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: May 13, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10545 Filed 5–18–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2790–074]

Boott Hydropower, LLC; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2790–074.

c. *Date Filed:* April 30, 2021.

d. *Applicant:* Boott Hydropower, LLC (Boott).

e. *Name of Project:* Lowell Hydroelectric Project.

f. *Location:* The existing project is located on Merrimack River in Middlesex County, Massachusetts and Hillsborough County, New Hampshire. The project does not occupy any federal land but is located within the administrative boundary of the Lowell National Historical Park.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Kevin Webb, Licensing Manager, Boott Hydropower, LLC, 670 N Commercial Street, Suite 204, Manchester, NH 03101; Phone at (978) 935–6039, or email at *kwebb@centralriverspower.com.*

i. *FERC Contact:* Amy Chang, (202) 502–8250 or *amy.chang@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *Project Description:* The existing Lowell Hydroelectric Project consists of: (1) The 1,093-foot-long, 15-foot-high Pawtucket Dam; (2) a 720-acre impoundment with a normal maximum water surface elevation of 92.2 feet National Geodetic Vertical Datum of 1929 (NGVD); (3) the 5.5-mile-long Northern and Pawtucket Canal System that includes several small dams and gatehouses; (4) generating facilities, including: (a) One powerhouse facility located on the mainstem of the Merrimack River (E. L. Field Powerhouse), with a total authorized installed capacity of 15.012 MW and a 440-foot-long tailrace to the Merrimack River; and (b) four power stations located along the canal system (Hamilton Power Station, Assets Power Station, Bridge Street Power Station, and John Street Power Station), with a total combined authorized capacity of 5.152 MW; (5) an approximately 2-mile-

long, 13.8-kilovolt. submarine cable that connects the project generating facilities to the regional electric grid; (6) upstream and downstream fish passage facilities; (7) a visitor center; and (8) appurtenant facilities.

The project bypasses approximately two miles of the Merrimack River, including a 0.7-mile-long bypassed reach from the Pawtucket Dam to the E.L. Field Powerhouse tailrace and an approximately 1.3-mile-long bypassed reach from the E.L. Field Powerhouse tailrace to the confluence of the Merrimack and Concord Rivers.

The current license requires Boott to release an instantaneous minimum flow of 1,990 cfs or inflow, whichever is less, downstream of the project. Boott provides the minimum flow through spillage over the Pawtucket Dam, discharge from the project turbines, and the fish passage facilities.

In the license application, Boott proposes to remove the four power stations located along the canal system (Hamilton Power Station, Assets Power Station, Bridge Street Power Station, and John Street Power Station) and associated canals and infrastructure from the current project boundary, and not to include the four power stations and associated canals and infrastructure as part of any new license. The proposed project would include the portion of the Northern Canal necessary to operate the E.L. Field Powerhouse, and the upper portion of the Pawtucket Canal. Boott states that it would ''continue to manage the canal structures, water levels and flows using best practices and consistent with current agreements with the National Park Service and other stakeholders.''

In the license application, Boott proposes to operate the project in run-of-river mode. Boott proposes to provide a minimum flow of 500 cfs to the bypassed reach via the Pawtucket Dam fish ladder during the fish passage season (typically May 1–July 15), and 100 cfs outside of the fish passage season. Boott also proposes to replace the existing fish lift at the E.L. Field Powerhouse with a fish ladder to pass migratory fish from the E.L. Field Powerhouse tailrace to the bypassed reach, such that all fish would be passed upstream of the project via the existing fish ladder at the Pawtucket Dam. Finally, Boott proposes to develop a decommissioning plan for each of the four power stations and the canal system within 18 months of license issuance.

l. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested individuals an opportunity to view and/or print the contents of this document and the full license application via the internet through the Commission's Home Page (*www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–2790). 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 on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659. A copy of the full license application is also available for inspection and reproduction at the Pollard Memorial Library, 276 Broadway Street, Lowell, MA 01854, or at the Nashua Public Library, 2 Court Street, Nashua, NH 03060.

m. You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* On June 12, 2020, Commission staff issued a revised process plan and schedule that includes milestones and dates for the filing and review of Boott's outstanding study reports under the Integrated Licensing Process. After Boott completes and files the outstanding study reports, Commission staff will issue a revised procedural schedule with target dates for the post-filing milestones listed below.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis	TBD.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	TBD.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: May 13, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–10537 Filed 5–18–21; 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:

Docket Numbers: RP21–821–000.

Applicants: Venice Gathering System, L.L.C.

Description: § 4(d) Rate Filing: Ministerial Filing to Update Contact and website Information to be effective 7/1/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5043.

Comments Due: 5 p.m. ET 5/24/21.

Docket Numbers: RP21–822–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Fourth Intermediate GMS Filing to be effective 6/11/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5107.

Comments Due: 5 p.m. ET 5/24/21.

Docket Numbers: RP21–823–000.

Applicants: ARC Resources Ltd., Seven Generations Energy (US) Corp.

Description: Joint Petition For Temporary Waiver, et al. of ARC Resources Ltd., et al.

Filed Date: 5/12/21.

Accession Number: 20210512–5208.

Comments Due: 5 p.m. ET 5/19/21.

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

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

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For

other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 13, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10543 Filed 5–18–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2905–035]

Village of Enosburg Falls, Vermont; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 2905–035.

c. *Date Filed:* April 30, 2021.

d. *Applicant:* Village of Enosburg Falls, Vermont (Village).

e. *Name of Project:* Enosburg Falls Hydroelectric Project (project).

f. *Location:* On the Missisquoi River in Franklin County, Vermont. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Paul V. Nolan, Representative of Village of Enosburg Falls, 5515 North 17th Street, Arlington, VA 22205–2722; phone at (703) 534–5509; email at *pvnpvndiver@gmail.com.*

i. *FERC Contact:* Bill Connelly at (202) 502–8587, or *william.connelly@ferc.gov.*

j. *Cooperating Agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* June 29, 2021.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Enosburg Falls Project (P–2905–035).

m. The application is not ready for environmental analysis at this time.

n. *Project Description:* The existing Enosburg Falls Project consists of: (1) A 195-foot-long, 18.5-foot-high concrete gravity dam that includes the following sections: (a) A left abutment section; (b) a 165-foot-long spillway with 24-inch-high pneumatic crest gates and a crest elevation of 386.87 feet National Geodetic Vertical Datum of 1929 (NGVD 29) at the top of the pneumatic crest gates; and (c) a right abutment section; (2) a 121-acre impoundment with a usable storage capacity of 240 acre-feet and a gross storage capacity of 750 acre-feet at an elevation of 386.87 feet NGVD 29; (3) a steel headgate structure equipped with an inclined steel trashrack, that includes two 10-foot-wide, 8-foot-high hydraulically-powered sluice gates and a concrete penstock intake structure with a 12-foot-wide, 8-foot-high hydraulically-powered sluice gate; (4) an 80-foot-long, 5.6-foot-diameter steel penstock that provides flow to a 375-kilowatt (kW) semi-Kaplan regulated turbine-generator unit located inside of a 39.9-foot-long, 24.3-foot-wide concrete and brick masonry powerhouse (Kendall Plant); (5) an approximately 5-foot-long, 10-foot-wide tailrace of the Kendall Plant that discharges into the Missisquoi River; (6) an approximately 210-foot-long, 29-foot-wide headrace canal located at the downstream of the headgate structure; (7) an intake structure, at the downstream end of the headrace canal, equipped with a sluice gate and an inclined trashrack; (8) a 28.7-foot-long, 29.9-foot-wide concrete and brick masonry powerhouse (Village Plant) containing a vertical Kaplan turbine-generator unit with an authorized capacity of 600 kW; (9) an approximately 240-foot-long, 25-foot-wide tailrace of the Village Plant that discharges into the Missisquoi River; (10) two 2.4-kilovolt (kV) generator lead lines, respectively 200-foot-long and 250-foot-long, and a 4.16/12.47-kV transformer that connects the project to the local utility distribution system at the Enosburg Substation; and (11) appurtenant facilities.

The Village voluntarily operates the project in a run-of-river mode using an automatic pond level control system to regulate turbines operation, such that outflow from the project approximates inflow. The project creates an approximately 1400-foot-long bypassed reach of the Missisquoi River.

Downstream fish passage is provided by a bypass facility located on the right side of the dam and consists of a weir gate, a 3-foot-wide, 6-foot-long concrete fish collection box, and an approximately 65-foot-long, 24-inch-diameter concrete encased fish passage pipe.

For the purpose of protecting aquatic resources, the current license requires the Village to: (1) Maintain a continuous minimum flow of 293 cubic feet per second (cfs) or inflow, whichever is less, in the bypassed reach, as measured downstream of the tailrace of the Village Plant; and (2) maintain a continuous minimum flow of 293 cfs from April 15 until June 15, and 120 cfs from June 16 until April 14, or inflow, whichever is less, in the bypassed reach between the Kendall Plant tailrace and the Village Plant tailrace.

The Village proposes to: (1) Continue to operate the project in a run-of-river mode; (2) provide a year-round continuous minimum flow of 243 cfs, or inflow, whichever is less, in the bypassed reach between the Kendall Plant tailrace and the Village Plant tailrace; (3) develop a plan for maintaining minimum flows, impoundment levels, and run-of-river operation; and (4) develop a historic properties management plan to address and mitigate any project effects on historic or cultural properties.

o. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all

interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) 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 (P–2905). 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 FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural Schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter—June 2021

Request Additional Information—June 2021

Issue Acceptance Letter—September 2021

Issue Scoping Document 1 for comments—September 2021

Request Additional Information (if necessary)—September 2021

Issue Scoping Document 2—November 2021

Issue Notice of Ready for Environmental Analysis—November 2021

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: May 13, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–10542 Filed 5–18–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5596–020]

Town of Bedford; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 5596–020.

c. *Date Filed:* April 30, 2021.

d. *Applicant:* Town of Bedford.

e. *Name of Project:* Bedford Hydroelectric Project.

f. *Location:* On the James River in the town of Bedford in Bedford and Amherst counties, Virginia. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* M. Scott Salmon, Electric Systems Engineer, Town of Bedford Electric Department, 877 Monroe Street, Bedford, Virginia 24523; (540) 587–6079.

i. *FERC Contact:* Allyson Conner, (202) 502–6082 or *allyson.conner@ferc.gov.*

j. *Cooperating Agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* June 29, 2021.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Bedford Hydroelectric Project (P–5596–020).

m. This application is not ready for environmental analysis at this time.

n. *The existing Bedford Hydroelectric Project (Bedford Project) consists of:* (1) A 9-to 17-foot-high concrete gravity dam with a 1,680-foot-long concrete spillway; (2) a 57-acre impoundment with a storage capacity of 350 acre-feet at the normal maximum water surface elevation of 628.0 feet above mean sea level; (3) a 1,200-foot-long, 180-foot-wide, 16-foot-deep power canal; (4) a power canal headgate composed of three 21.6-foot-wide, 15.9-foot-high steel gates; (5) a 49.1-foot-wide, 29.02-foot-high steel trashrack with a clear bar spacing of 3.5-inches; (6) a 55-foot-long, 80-foot-wide powerhouse; (7) two 2.5-megawatt (MW) turbine-generator units with a total capacity of 5.0 MW; (8) a 65-foot-long, 120-foot-wide tailrace; (9) a 4.0-kilovolt, 120-foot-long underground transmission line from the powerhouse to the project substation; (10) two 3.75-megavolt-ampere step-up transformers; and (11) appurtenant facilities.

The Bedford Project is operated in run-of-river mode. The average annual generation is estimated to be 1,114.75 megawatt-hours.

o. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects.

For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—July 2021
Request Additional Information—July 2021
Issue Acceptance Letter—October 2021
Issue Scoping Document 1—October 2021
Comments on Scoping Document 1 due—November 2021
Issue Scoping Document 2 (if necessary)—January 2022
Issue Notice of Ready for Environmental Analysis—February 2022
Commission issues EA—July 2022
Comments on EA—August 2022

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: May 13, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–10541 Filed 5–18–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–72–000]

LS Power Development, LLC, Doswell Limited Partnership v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on May 7, 2021, pursuant to sections 206, and 306 of the Federal Power Act, 16 U.S.C. 824e, 825e and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, LS Power Development, LLC and Doswell Limited Partnership (Complainants) filed a formal complaint against PJM Interconnection, L.L.C., (Respondent or PJM) alleging that the Respondent violated the Reliability Assurance Agreement among Load Serving Entities in the PJM Region by approving FRR Alternative elections by entities whose FRR Capacity Plans did not demonstrate the commitment of capacity resources to meet their capacity obligations for the full term of the elections, all as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondent in the Commission's list of Corporate Officials, and on the Independent Market Monitor for PJM.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* 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.

Comment Date: 5:00 p.m. Eastern Time on May 27, 2021.

Dated: May 13, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–10538 Filed 5–18–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–142–000.
Applicants: Bluestone Wind, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Bluestone Wind, LLC.
Filed Date: 5/12/21.
Accession Number: 20210512–5222.
Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: EG21–143–000.
Applicants: Ball Hill Wind Energy, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Ball Hill Wind Energy, LLC.
Filed Date: 5/12/21.
Accession Number: 20210512–5223.
Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: EG21–144–000.
Applicants: White Mesa Wind, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of White Mesa Wind, LLC.
Filed Date: 5/10/21.
Accession Number: 20210510–5231.
Comments Due: 5 p.m. ET 6/1/21.

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

Docket Numbers: ER10–2641–038; ER10–1852–051.
Applicants: Florida Power & Light Company, Oleander Power Project, Limited Partnership.
Description: Notice of Change in Status of Florida Power & Light Company, et al.
Filed Date: 5/3/21.
Accession Number: 20210503–5115.
Comments Due: 5 p.m. ET 5/24/21.

Docket Numbers: ER19–2858–005.
Applicants: East Coast Power Linden Holding, L.L.C.
Description: Compliance filing: Informational Filing Under PJM Tariff Schedule 2 and Request for Partial Waiver to be effective N/A.
Filed Date: 1/29/21.
Accession Number: 20210129–5271.
Comments Due: 5 p.m. ET 5/24/21.

Docket Numbers: ER21–894–001.
Applicants: Louisville Gas and Electric Company.
Description: Compliance filing: Compliance Filing Transition Mechanism Agreement KMPA to be effective 3/17/2021.

Filed Date: 5/13/21.
Accession Number: 20210513–5021.
Comments Due: 5 p.m. ET 6/3/21.

Docket Numbers: ER21–895–001.
Applicants: Louisville Gas and Electric Company.
Description: Compliance filing: Compliance Filing Transition Mechanism Agreement KYMEA to be effective 3/17/2021.
Filed Date: 5/13/21.
Accession Number: 20210513–5022.
Comments Due: 5 p.m. ET 6/3/21.

Docket Numbers: ER21–896–001.
Applicants: Louisville Gas and Electric Company.
Description: Compliance filing: Compliance Filing Transition Mechanism Agreement OMU to be effective 3/17/2021.
Filed Date: 5/13/21.
Accession Number: 20210513–5023.
Comments Due: 5 p.m. ET 6/3/21.

Docket Numbers: ER21–1176–000; ER21–1177–000.
Applicants: Delta's Edge Solar, LLC, Crosset Solar Energy, LLC.
Description: Response to April 19, 2021 Deficiency Letter of Delta's Edge Solar, LLC et al.
Filed Date: 5/12/21.
Accession Number: 20210512–5210.
Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1879–001.
Applicants: Farmington Solar, LLC.
Description: Tariff Amendment: Farmington Solar, LLC Amendment to the Application for MBR Authority to be effective 7/11/2021.
Filed Date: 5/13/21.
Accession Number: 20210513–5131.
Comments Due: 5 p.m. ET 6/3/21.

Docket Numbers: ER21–1881–001.
Applicants: Grand Tower Energy Center, LLC.
Description: Tariff Amendment: Notice of Cancellation of Reactive Tariff and Request for Waiver to be effective 7/1/2021.
Filed Date: 5/11/21.
Accession Number: 20210511–5121.
Comments Due: 5 p.m. ET 6/1/21.

Docket Numbers: ER21–1898–000.
Applicants: Commonwealth Edison Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ComEd submits Interconnection Agreement, SA No. 5955 with NIPSCO to be effective 4/2/2021.
Filed Date: 5/12/21.
Accession Number: 20210512–5206.
Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1899–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Amendment to Service Agreement No. 804 to be effective 5/11/2021.
Filed Date: 5/13/21.
Accession Number: 20210513–5071.
Comments Due: 5 p.m. ET 6/3/21.

Docket Numbers: ER21–1900–000.
Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.
Description: § 205(d) Rate Filing: Joint 205 TIPIA: NYISO, National Grid, NYPA for Segment A, SA 2611, CEII to be effective 4/29/2021.
Filed Date: 5/13/21.
Accession Number: 20210513–5073.
Comments Due: 5 p.m. ET 6/3/21.

Docket Numbers: ER21–1901–000.
Applicants: Southwestern Public Service Company.
Description: Request for Limited Waiver of Tariff Provision, et al. of Southwestern Public Service Company.
Filed Date: 5/13/21.
Accession Number: 20210513–5081.
Comments Due: 5 p.m. ET 5/20/21.

Docket Numbers: ER21–1902–000.
Applicants: Southern California Edison Company.
Description: Tariff Cancellation: Notice of Cancellation Letter Agreement IP Oberon, LLC SA No. 248 to be effective 5/14/2021.
Filed Date: 5/13/21.
Accession Number: 20210513–5082.
Comments Due: 5 p.m. ET 6/3/21.

Docket Numbers: ER21–1903–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2021–05–13_Attachment FF removal of RPCE language to be effective 7/13/2021.
Filed Date: 5/13/21.
Accession Number: 20210513–5095.
Comments Due: 5 p.m. ET 6/3/21.

Docket Numbers: ER21–1904–000.
Applicants: Southwestern Electric Power Company.
Description: § 205(d) Rate Filing: SWEPCO-Bentonville (POD#6 Sunshine and Sub E) Delivery Point Agreements to be effective 5/5/2021.
Filed Date: 5/13/21.
Accession Number: 20210513–5127.
Comments Due: 5 p.m. ET 6/3/21.

Docket Numbers: ER21–1905–000.
Applicants: NextEra Energy Transmission MidAtlantic Indiana, Inc., PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: NEET MidAtlantic IN submits Interconnection Agreement, SA No. 5801 with NIPSCO to be effective 10/29/2020.
Filed Date: 5/13/21.
Accession Number: 20210513–5146.
Comments Due: 5 p.m. ET 6/3/21.

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

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

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

Dated: May 13, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10547 Filed 5–18–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No.10934–000]

Sugar River Hydro II, LLC; Notice of Authorization for Continued Project Operation

The current license for the Sugar River II Project (project) is held by Sugar River Hydro II, LLC (Sugar River Hydro) under Project No. 10934. The project is located on the Sugar River, in Sullivan County, New Hampshire. On April 30, 2019, Sugar River Hydro filed a letter stating that it is not filing an application to relicense the project. On May 8, 2019, the Commission, pursuant to 18 CFR 16.25(a), issued a notice soliciting potential new applicants for the project, which provided until August 6, 2019 for potential applicants to submit a pre-application document (PAD) and notice of intent (NOI). In response to the solicitation notice, New Hampshire Renewable Resources, LLC (New Hampshire Renewable) filed a PAD and NOI to relicense the Sugar River II Project, pursuant to 18 CFR 5.5 and 5.6 of the Commission's regulations. Commission staff assigned Project No. 15003 for the licensing proceeding initiated by New Hampshire Renewable's filing. On February 8, 2021, New Hampshire Renewable filed an application for a subsequent license for the Sugar River II Project pursuant to

the Federal Power Act (FPA) and the Commission's regulations thereunder.

The license for Project No. 10934 was issued for a period ending April 30, 2021. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 10934 is issued to Sugar River Hydro for a period effective May 1, 2021 through April 30, 2022 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2022, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Sugar River Hydro is authorized to continue operation of the Sugar River II Project, until such time as the Commission acts on the application for a subsequent license.

Dated: May 13, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–10540 Filed 5–18–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–73–000]

Edgecombe Solar Energy LLC v. Duke Energy Progress, LLC, Duke Energy Carolinas, LLC, and Duke Energy Florida, LLC; Notice of Complaint

Take notice that on May 12, 2021, pursuant to sections 206 and 306, of the Federal Power Act, 16 U.S.C. 824e and 825e and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 (2020), Edgecombe Solar Energy LLC (Complainant) filed a formal complaint against Duke Energy Progress, LLC, Duke Energy Carolinas, LLC and Duke Energy Florida, LLC (collectively, Duke Companies or Respondents) requesting that the Commission direct the Duke Companies to revise their Affected System Operator Agreement form to include the Commission's required provisions providing for reimbursement of Network Upgrades that the Duke Companies construct in their role of Affected System Operators,[1] as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondents in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondents' answer and all interventions, or protests must be filed on or before the comment date. The Respondents' answer, motions to intervene, and protests must be served on the Complainant.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* 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://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.

Comment Date: 5:00 p.m. Eastern Time on June 1, 2021.

Dated: May 13, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10544 Filed 5–18–21; 8:45 am]

BILLING CODE 6717–01–P

[1] An Affected System means an electric system other than the Transmission Provider's Transmission System that may be affected by the proposed interconnection. An Affected System Operator shall mean the entity that operates an Affected System. *See pro forma* Large Generator Interconnection Agreement, Art. 1 (''LGIA Definitions''), available at *https://www.ferc.gov/sites/default/files/2020-04/LGIA-agreement.pdf.* Other capitalized terms in this document have the meaning set forth in the Commission's *pro forma* OATT.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10023–10–Region 9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Explanation of Significant Differences for the Del Norte County Pesticide Storage Area Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of explanation of significant differences.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region 9 is issuing an explanation of significant differences (ESD) for the Del Norte County Pesticide Storage Area Superfund Site (the Site), located at 2650 West Washington Boulevard in Crescent City, Del Norte County, California, and is notifying the public of

this undertaking. When significant but not fundamental changes are made to the scope, performance, or cost of a remedy after a final remedy has been adopted, Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), require that the lead agency prepare an ESD. Because the Site's remaining contaminant of concern (COC) has reached drinking water standards, this ESD was issued to modify the remedy at the Site to remove the technical impracticability (TI) waiver for 1,2-dichloropropane (1,2-DCP) and reinstate the applicable or relevant and appropriate requirement (ARAR) for 1,2-DCP. In accordance with CERCLA, the EPA consulted with the support agency, the California Department of Toxic Substances Control (DTSC). DTSC provided written concurrence on the ESD. The Site was delisted from EPA's National Priorities List (NPL) in 2002, and this remedy modification does not impact EPA's determination that the Site remedy remains protective of human health and the environment, complies with federal and state requirements that were identified as applicable or relevant and appropriate to this remedial action, and is cost-effective.

DATES: The Final ESD became effective on April 14, 2021.

FOR FURTHER INFORMATION CONTACT: Cynthia Ruelas, Superfund Remedial Project Manager, EPA, Region 9 (SFD–7–1), 75 Hawthorne Street, San Francisco, CA 94105; telephone number: 415–972–3329; email address: *ruelas.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Region 9 of the EPA announces the issuance of an ESD at the Del Norte County Pesticide Storage Area Superfund Site (Site). When significant, but not fundamental, changes are made to the scope, performance, or cost of a remedy after a final remedy has been adopted, CERCLA and the NCP require that the lead agency prepare an ESD pursuant to the NCP, 40 CFR 300.435(c)(2) and 300.825(a).

Section II of this notice explains the purpose of an ESD. Section III discusses the process that the EPA has undertaken for this action. Section IV discusses the site and describes the basis for issuance of an ESD.

II. ESD Purpose

EPA adopted this ESD to document a change to the selected remedy to remove a TI waiver for 1,2-DCP, adopt the maximum contaminant level (MCL) as the cleanup level, and describe how the Site has met that ARAR standard. Changes to a Selected Remedy described in a Record of Decision (ROD) are documented using one of the following documents, depending on the nature of the change: (1) A technical memorandum in the Administrative Record for an insignificant or minor change; (2) an ESD for a significant change; or (3) a ROD Amendment for a fundamental change. A significant change is defined as a change to a component of a remedy that does not fundamentally alter the overall cleanup approach. Because this remedy change updates the status of the Site TI Waiver and ARAR requirements and does not change the remedy approach, an ESD was deemed to be the appropriate document to record the changes to the ROD. An ESD provides a description of the nature of the significant change, summarizes the information that led to making the change, and affirms that the revised remedy complies with the NCP and the statutory requirements of CERCLA. In accordance with the ROD for the Site, the overall cleanup goal of the remediation, which is to protect public health from exposure to COCs, remains in place. The ROD for the Site is being modified so that remedy implementation can be refined and improved to reflect achievement of health protective cleanup levels.

III. ESD Process

The following describes the general process that the EPA followed to prepare and issue the ESD.

(1) The ESD identifies and discusses the significant differences between the remedy as presented in the ROD and subsequent decision documents and the change now proposed. It identifies the remedial action objectives (RAOs) of the remedy, which include a reinstated objective from the ROD to clean up contaminated groundwater to meet drinking water standards and enable beneficial use of the Site. The ESD also summarizes the scope and performance of the current and previous Site decision documents (the 1985 ROD, 1989 ESD, 2000 ROD Amendment, and 2021 ESD).

(2) The ESD confirms that the Site remedy continues to meet ARARs (in compliance with the NCP, 40 CFR 300.430(f)(1)(ii)(B)(1) and (2)), satisfies Section 121 of CERCLA, 42 U.S.C. 9621, and remains protective of human health and the environment.

(3) Before issuance of the ESD, the EPA as lead agency consulted with DTSC, the support agency, in accordance with the NCP, 40 CFR 300.435(c)(2). The EPA provided DTSC the opportunity to comment on the ESD. DTSC concurred with the issuance of the ESD for the Site, and DTSC's concurrence memo is included as an attachment to the ESD.

(4) The EPA Regional Administrator's designee approved and signed the ESD.

(5) Concurrent with the publication of this notice of issuance of this ESD in the **Federal Register**, the EPA published a notice of availability and a brief description of the ESD in a major local newspaper of general circulation (as required by the NCP at 40 CFR 300.435(c)(2)(i)(B)). A formal public comment period is not required for issuance of an ESD.

(6) The ESD and supporting documents are available for public review in the Administrative Record file and information repository, pursuant to the NCP, 40 CFR 300.435(c)(2)(i)(A) and 300.825(a)(2).

IV. Basis for Issuance of an ESD

The following information provides the EPA's basis for issuing the ESD for the Site.

Site Background and History

The Site (CERCLIS ID #CAD000626176) is located at 2650 West Washington Boulevard in Crescent City, Del Norte County, California, and is an approximately 1-acre property consisting of 2 parcels. From 1970 to 1981, the site served as a collection facility for pesticide storage containers used in local agricultural and forestry operations in Del Norte County. The facility was operated by the County, with approval from the North Coast Regional Water Quality Control Board (NCRWQCB), and was intended to serve as a county-wide collection point for interim or emergency storage of pesticide containers generated by local agricultural and forestry-related industries. Inspections conducted by the EPA and NCRWQCB in 1981 revealed violations of the Resource Conservation and Recovery Act (RCRA), and a failure to operate under the conditions previously agreed upon with the NCRWQCB. Shortly after receiving a Cleanup and Abatement Order from NCRWQCB, the County decided to close the facility. State and County sampling efforts revealed a variety of contaminants in the soil and groundwater at the Site. Due to lack of County funding to investigate the extent of contamination and develop a cleanup plan, the EPA placed the Site on the NPL in 1984.

Basis for Taking Action

NCRWQCB conducted initial investigations at the Site and found that both the soil and groundwater were contaminated with various herbicides, pesticides, and volatile and semi-volatile organic compounds and chromium. The specific COCs identified were 1,2-DCP and 2,4-dichlorophenoxyacetic acid (2,4-D). Soil contamination was detected to a depth of 15 feet but was contained to an on-site sump of 15 feet by 20 feet. At the time, the groundwater contaminant plume was estimated to extend approximately 170 feet to the southeast of the sump, in the direction of groundwater movement. If the contaminated aquifer were to be used as a drinking water supply, it would pose a significant health risk. Ingestion of these contaminants has been linked to increased cancer risk. Investigations indicated that elevated levels of chromium were also present at the Site.

Original Remedy Selection

In 1985, the EPA selected a remedy in a ROD to address the soil and groundwater contamination at the Site. The major components of the Selected Remedy included: Excavation and off-site disposal of contaminated soils; extraction and treatment of groundwater through carbon adsorption and coagulation/filtration treatment; disposal of treated groundwater to the Crescent City Wastewater Treatment Plant; and groundwater monitoring.

Actions Taken Following ROD Issuance

The 1989 ESD explained that because the chromium at the Site was determined to be naturally-occuring, it could not be remedied under CERCLA, pursuant to 42 U.S.C. 104(a)(3)(A). The ESD also documented and justified a change in the groundwater treatment method from carbon adsorption and coagulation/filtration to air sparging.

The EPA issued a ROD Amendment in 2000 that revised the remedy, because the Site RAO of restoring the contaminated groundwater to the drinking water standard for 1,2-DCP could not be met, because no technology existed that was capable of reaching the 10 micrograms per liter (µg/L) level set out in the ROD. Notably, this applied as well to the Maximum Contaminant Level (MCL) of 5 µg/L that had since been adopted since the cleanup level had been selected for the Site. In light of the inability to reach these cleanup levels, the ROD Amendment's revised remedy instead sought to contain the groundwater contamination through natural attenuation and monitoring and prevent its use as drinking water for as long as contaminant concentrations exceeded drinking water quality standards. The ROD Amendment identified the new ARAR for 1,2-DCP (equivalent to the new MCL of 5 µg/L); adopted a TI waiver of the newly identified ARAR for groundwater within the existing contaminated area where 1,2-DCP exceeded 5 µg/L; and required semi-annual groundwater monitoring and the enactment of institutional controls (ICs) to prevent exposure to contaminated groundwater.

In 2002, the EPA, DTSC, and Del Norte County entered into a Consent Decree, and in doing so, Del Norte County agreed to carry out and finance continued remediation efforts at the Site, including monitoring groundwater and implementing ICs in accordance with Site decision documents and plans. Also, in that same year, because all response actions required under CERCLA had been completed, except for ongoing operation and maintenance and Five-Year Reviews, following a 30-day public comment period, the EPA deleted the Site from the NPL.

Basis for ESD

Nearly 20 years after issuance of the TI waiver for 1,2-DCP, groundwater data from the Site consistently demonstrate that concentrations of 1,2-DCP have significantly decreased and are now below the drinking water standard of 5 µg/L. Given the effectiveness of natural attenuation in lowering concentrations of 1,2-DCP in Site groundwater to meet the MCL, the TI waiver adopted in the 2000 ROD Amendment is no longer necessary. Through this ESD, the EPA is removing the TI waiver for 1,2-DCP and reinstating the 1,2-DCP ARAR. The ESD also reinstates the original RAO that sought to clean up contaminated groundwater to meet drinking water standards. Cleanup under CERCLA is considered complete, although groundwater monitoring is currently ongoing at the Site under state oversight, and EPA plans to continue the Five-Year Review process as required until such time that groundwater attainment is formally achieved.

Enrique Manzanilla,

Director, Superfund Division, U.S. EPA, Region 9.

[FR Doc. 2021–10511 Filed 5–18–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0068; FRL–10024–18]

Certain New Chemicals; Receipt and Status Information for April 2021

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA Section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 04/01/2021 to 04/30/2021.

DATES: Comments identified by the specific case number provided in this document must be received on or before June 18, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0068, and the specific case number for the chemical substance related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket,

along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, Project Management and Operations Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 04/01/2021 to 04/30/2021. The Agency is providing notice of receipt of PMNs, SNUNs and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

B. What is the Agency's authority for taking this action?

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (see the **Federal Register** of May 12, 1995 (60 FR 25798) (FRL–4942–7). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a

notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.,* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 04/01/2021 TO 04/30/2021

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–21–0012	1	03/31/2021	Vestaron corporation	(G) Production of an agricultural product	(G) Yeast that has been stably modified for the production of an agricultural product.
J–21–0013	1	04/02/2021	Vestaron corporation	(G) Production of an agricultural product	(G) Yeast that has been stably modified for the production of an agricultural product.
P–18–0293A	10	04/12/2021	Sirrus, Inc	(S) Intermediate: Monomer used as a chemical intermediate in the manufacture of polymers substance, industrial coatings (*e.g.,* protective floor coatings) is not used in spray applications, adhesives (*e.g.,* reactive, industrial structural adhesives or lamination) applied from a liquid form (not aerosol or spray) as a bead or film and are applied via static mixer, roller, brush, roll coater, or squeegee.	(S) Propanedioic acid, 2-methylene-, 1,3-dihexyl ester.
P–18–0294A	10	04/12/2021	Sirrus, Inc	(S) Monomer used as a chemical intermediate in the manufacture of polymers. The PMN substance is loaded into the polymerization equipment and is consumed during the polymerization process—no inhalation exposure is expected during transfer and polymerization. After incorporation into the polymer, there is no worker exposure to the PMN substance.	(S) Propanedioic acid, 2-methylene-, 1,3-dicyclohexyl ester.
P–18–0353A	3	04/13/2021	CBI	(G) Adhesive	(G) Phenolic resin, alkali, polymer with acetone-phenol reaction products, formaldehyde and phenol, sodium salts.
P–18–0354A	3	04/13/2021	CBI	(G) Adhesive	(G) Phenolic resin, alkali, polymer with acetone-phenol reaction products, formaldehyde and phenol, potassium salts.
P–20–0001A	7	04/05/2021	Santolubes Manufacturing, LLC.	(S) Synthetic engine, gear & lubricating oils & greases.	(S) Poly(oxy-1,4-butanediyl), alpha-(1-oxononyl)-omega-[(1-oxononyl)oxy]-.
P–20–0050	4	04/07/2021	CBI	(G) Additive in consumer products	(S) Benzenepentanol, alpha, gamma-dimethyl-.
P–20–0093A	4	04/06/2021	Ashland, Inc	(G) Coating	(G) Alkanoic acid, 3-heteroatom substituted-2-(heteroatom-substituted alkyl)-2-alkyl-, polymer with 1,2-alkanediamine, alpha-hydro-omega-heteroatom-substituted poly(oxy-1,4-alkanediyl) and 5-heteroatom substituted- 1- (heteroatom-substituted alkyl)-1, 3, 3-trialkylcycloalkane.
P–20–0109A	3	04/13/2021	Huntsman Corporation	(S) Exhaust dyeing of cotton and cotton blends.	(G) Acetamide, N-[3-[alkyl(carbomonocyclic) substituted]carbomonocycle]-, coupled with diazotized 2- substituted-3-halo-5-nitrobenzonitrile.
P–20–0138A	5	04/16/2021	Gurit (USA), Inc	(S) The substance is part of a mixture with other amines to act as a curative for a 2-part epoxy adhesive formulation but not limited to industries such as marine, automotive and wind energy. The adhesive is ''cured'' at either ambient conditions or using heat and a chemical reaction occurs forming a solid composite structure.	(G) Alkane diglycidy ether, polymer with alkyl-cycloalkane diamines.
P–20–0138A	6	04/22/2021	Gurit (USA), Inc	(S) The substance is part of a mixture with other amines to act as a curative for a 2-part epoxy adhesive formulation but not limited to industries such as marine, automotive and wind energy. The adhesive is ''cured'' at either ambient conditions or using heat and a chemical reaction occurs forming a solid composite structure.	(G) Alkane diglycidy ether, polymer with alkyl-cycloalkane diamines.
P–20–0174A	6	04/13/2021	P2 Science, Inc	(S) For use in consumer products, as well as direct addition to consumer products. Specific functions would be as solubilizer, rheology modifier and fragrance oil.	(S) 6-Octen-1-ol, 3,7-dimethyl-, homopolymer, monoacetate.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 04/01/2021 TO 04/30/2021—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–20–0184A	4	04/13/2021	P2 Science, Inc	(S) For use in fragrances for consumer products, as well as direct addition to consumer products. Specific functions would be as solubilizer, rheology modifier and fragrance oil.	(S) 6-Octen-1-ol, 3,7-dimethyl-, homopolymer.
P–21–0014A	3	04/19/2021	CBI	(G) Oil and gas extraction	(G) Aliphatic alcohol, bis-tetra-alkyl ammonium, chloride salts.
P–21–0048	3	04/20/2021	CBI	(G) Photolithography	(G) Sulfonium, tricarbocyclic-, polyfluoropolyhydro-2,2-dicarbocyclic -4,7-methano-1,3-benzodioxole-5-alkanesulfonate (1:1).
P–21–0087	3	04/06/2021	CBI	(G) Detergent additive	(G) Syrups, hydrolyzed starch, dehydrated, polymers with methacrylic acid and alkenenylbenzene.
P–21–0091A	4	04/02/2021	CBI	(G) Laundry detergent additive/emulsifier, emulsifier—water treatment, Industrial fluid, Coatings and Plastics.	(G) Fatty acid esters polymer with Dicarboxylic Acid.
P–21–0102	3	04/07/2021	CBI	(G) Raw material for industrial Additive Manufacturing, UV-curable inks, coatings and adhesives.	(G) Heteromonocycle, polymer, [2-[(1-oxo-2-propen-1-yl)oxy]alkyl]ester.
P–21–0104	2	04/07/2021	CBI	(G) Lubricant	(G) Alkanedioic acid, di branched alkyl esters.
P–21–0104A	3	04/19/2021	CBI	(G) Lubricant	(G) Alkanedioic acid, di branched alkyl esters.
P–21–0105	2	04/07/2021	CBI	(G) Lubricant	(G) Alkanedioic acid, di C11-14 isoalkyl esters.
P–21–0105A	3	04/19/2021	CBI	(G) Lubricant	(G) Alkanedioic acid, di C11-14 isoalkyl esters.
P–21–0106	2	04/14/2021	Eastman Chemical Company, Inc.	(S) Chemical additive for production of tire and non-tire rubber products.	(G) Distillates (petroleum), polymers with branched alkene.
P–21–0107	2	04/14/2021	Eastman Chemical Company, Inc.	(S) Chemical additive for production of tire and non-tire rubber products.	(G) Distillates (petroleum), polymers with branched alkene, hydrogenated.
P–21–0108	1	04/14/2021	Enchem America, LLC	(S) Additive for use in battery electrolyte formulations.	(G) Oxathiole, oxide.
P–21–0109	2	04/21/2021	Chevron El Segundo Refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, light alkylate.
P–21–0110	2	04/21/2021	Chevron El Segundo Refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, light catalytic cracked.
P–21–0111	2	04/21/2021	Chevron El Segundo Refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, heavy catalytic cracked.
P–21–0112	2	04/21/2021	Chevron El Segundo Refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, light hydrocracked.
P–21–0113	2	04/21/2021	Chevron El Segundo Refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, isomerization.
P–21–0114	2	04/21/2021	Chevron El Segundo Refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, heavy catalytic reformed.
P–21–0115	2	04/21/2021	CBI	(G) Raw material for industrial Additive Manufacturing, UV-curable inks, coatings and adhesives for industrial adhesives, inks and coatings.	(G) Heteromonocycle, polymer, substituted aliphatic carbamate, [2-[(1-oxo-2-propen-1-yl)oxy]alkyl]ester.
P–21–0116	2	04/21/2021	Chevron El Segundo Refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, hydrotreated light.
P–21–0117	2	04/21/2021	Chevron El Segundo Refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, hydrotreated light paraffinic.
P–21–0118	2	04/21/2021	Chevron El Segundo Refinery.	(S) Chemical Intermediate	(G) Hydrocarbons linear and branched, light catalytic cracked.
P–21–0119	2	04/21/2021	Chevron El Segundo Refinery.	(S) Chemical intermediate	(G) Hydrocarbons linear and branched, heavy hydrocracked.
P–21–0122	1	04/26/2021	Chevron El Segundo Refinery.	(S) Chemical Intermediate	(G) Hydrocarbons linear and branched, heavy hydrocracked.
P–21–0123	1	04/26/2021	Chevron El Segundo Refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, light hydrocracked.
P–21–0124	1	04/26/2021	CBI	(G) Photolithography	(G) Sulfonium, triphenyl-, salt with fluoroalkyl 5-sulfobicyclo[2.2.1]heptane carboxylate (1:1).
SN–21–0004	1	03/31/2021	CBI	(G) Monomer	(S) 2-Propenoic acid, 1,1′-(3-methyl-1,5-pentanediyl) ester.

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission prior to the start of the 90 day review period, and in no way reflects the final status of a complete submission review.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED* FROM 04/01/2021 TO 04/30/2021

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
J–20–0021	04/12/2021	04/12/2021	N	(G) Modified saccharomyces cerevisiae.
J–20–0023	04/12/2021	04/12/2021	N	(G) Modified saccharomyces cerevisiae.
P–13–0365	03/31/2021	03/23/2021	N	(G) Mdi modified polyalkene glycols.
P–16–0307	04/19/2021	04/14/2021	N	(G) Heteropolycycliccarboxylic acid, 1,3-dihydro-disubstituted-, polymer with 1,1′-methylenebis[4-isocyanatobenzene], reaction products with silica
P–17–0152A.	04/05/2021	06/04/2019	CBI Substantiation provided.	(G) Poly(alkyl-oxo-2-propen-1-yl)ester with alkaneaminium trialkyl chloride and alkoxy-poly(oxy-alkanediyl).
P–18–0345	04/22/2021	04/19/2021	N	(S) 1-butanone, 2-(dimethylamino)-1-[4-(2-ethyl-2-methyl-3-oxazolidinyl)phenyl]-2-(phenylmethyl)-.
P–18–0384	04/27/2021	04/25/2021	N	(S) Lithium 6.
P–19–0122	04/12/2021	04/01/2021	N	(G) 2-propenoic acid, 2-(hydrogenated animal-based nitrogen-substituted)ethyl ester.
P–19–0131	04/08/2021	03/28/2021	N	(G) Isoalkylaminium, n-isoalkyl,-n, n-dimethyl chloride,.
P–19–0131A	04/13/2021	03/28/2021	CBI Sustantiation provided.	(G) Isoalkylaminium, n-isoalkyl,-n, n-dimethyl chloride,.
P–20–0025	04/22/2021	04/15/2021	N	(G) Bt4.
P–20–0027	04/08/2021	03/18/2021	N	(G) Glycols, alpha, omega-, c2–6, polymers with adipic acid, dodecanedioic acid, hydracrylic acid polyester, isophthalic acid, 1,1′-methylenebis[4-isocyanatobenzene], neopentyl glycol and terephthalic acid.
P–20–0028	04/08/2021	03/18/2021	N	(G) Glycols, alpha, omega-, c2–6, polymers with adipic acid, aromatic polyester, dodecanedioic acid, hydracrylic acid polyester, isophthalic acid, 1,1′-methylenebis[4-isocyanatobenzene], neopentyl glycol and terephthalic acid.
P–20–0083	04/12/2021	04/01/2021	N	(G) 2-propenoic acid, nitrogen-substituted alkyl, n-c16–18-acyl derivs.
P–20–0132	04/02/2021	03/25/2021	N	(S) 1h-pyrrole-2,5-dione, 3-methyl-, 1,1′-c36-alkylenebis-.
P–21–0006	03/31/2021	03/25/2021	N	(G) Naphthalene derivative.

*The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 04/01/2021 TO 04/30/2021

Case No.	Received date	Type of test information	Chemical substance
P–14–0712	04/21/2021	Quarterly PCDD/F Test of PMN Substance using EPA Test Method 8290A.	(G) Plastics, wastes, pyrolyzed, bulk pyrolysate.
P–16–0543	04/14/2021	Exposure Monitoring Report March 2021	(G) Halogenophosphoric acid metal salt.
P–19–0036	04/26/2021	Daphnia sp., Acute Immobilization Test (Test Guideline OECD 202); Fish, Acute Toxicity Test (Test Guideline OECD 203); Freshwater Alga and Cyanobacteria, Growth Inhibition Test (Test Guideline OECD 201).	(S) 1,4-benzenedicarboxylic acid, 1,4-bis(2-phenoxyethyl) ester.
P–21–0022	04/27/2021	Bacterial Reverse Mutation Test (Test Guideline OECD 471).	(G) Rosin acid esters.
P–21–0027	04/26/2021	Photodegradation of onium cations of photoacid generators (PAGs) exposed to irradiation at 254 nm in liquid medium.	(G) Heteropolycyclic, trihaloalkyl carbomonocycle-, hydroxy carbomonocyclic salt.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: May 13, 2021.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2021–10559 Filed 5–18–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Notice of Board Meeting

DATES: May 26, 2021 at 10:00 a.m.

ADDRESSES: Telephonic. Dial-in (listen only) information: Number: 1–415–527–5035, Code: 199 893 1253; or via web: *https://tspmeet.webex.com/tspmeet/*

onstage/g.php?MTID=ef30474a99bac8e705d75cf8d84e602e7.

FOR FURTHER INFORMATION CONTACT: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

SUPPLEMENTARY INFORMATION:

Board Meeting Agenda

Open Session

1. Approval of the April 27, 2021 Board Meeting Minutes
2. Approval of the August 24, 2020 ETAC Meeting Minutes
3. Monthly Reports
   (a) Participant Activity Report
   (b) Legislative Report
   (c) Investment Performance
4. Quarterly Reports
   (d) Metrics
5. Multi-Asset Manager Update
6. L Funds Study
7. Retirement Wellness Survey Report
8. Office of Communications and Education Annual Report

(Authority: 5 U.S.C. 552b (e)(1).)

Dated: May 13, 2021.

Dharmesh Vashee,

Acting General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2021–10506 Filed 5–18–21; 8:45 am]

BILLING CODE 6760–01–P

OFFICE OF GOVERNMENT ETHICS

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Fast Track Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice and request for comments.

SUMMARY: After this first round notice and public comment period, the Office of Government Ethics (OGE) intends to submit a renewed Generic Information Collection Request for the collection of qualitative feedback on agency service delivery for review and approval of a three-year extension under the Paperwork Reduction Act.

DATES: Written comments by the public and agencies on this proposed extension are invited and must be received by July 19, 2021.

ADDRESSES: Comments may be submitted to OGE by any of the following methods:

Email: usoge@oge.gov (Include reference to ''Fast Track Generic Clearance comment'' in the subject line of the message.)

Mail, Hand Delivery/Courier: Office of Government Ethics, 1201 New York Avenue NW, Suite 500, Attention: Grant Anderson, Assistant Counsel, Washington, DC 20005–3917.

Instructions: Comments may be posted on OGE's website, *www.oge.gov.* Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Grant Anderson at the U.S. Office of Government Ethics; telephone: 202–482–9318; TTY: 800–877–8339; Email: *ganderso@oge.gov.*

SUPPLEMENTARY INFORMATION:

Title: Fast Track Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The proposed information collection provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the agency's commitment to improving service delivery. Qualitative feedback means information that provides useful insights on perceptions and opinions, but is not a statistical survey that yields quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between the agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. OGE expects to use various methods (*e.g.,* focus groups, customer satisfaction surveys, comment cards) to solicit feedback. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public and other agency stakeholders. If this information is not collected, vital feedback from customers and stakeholders on the agency's services will be unavailable.

The agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial;
- The collections are focused on the awareness, understanding, attitudes, preferences, or experiences of the public or other stakeholders in order to improve existing or future services, products, or communication materials;
- Personally identifiable information (PII) is collected only to the extent necessary;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release to the public;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections submitted under this generic clearance will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

OMB Number: 3209–0010.

Type of Request: Extension.

Affected Public: Individuals; Business or Other For-Profit Institutions; Not-For-Profit Institutions; State, Local, or Tribal Government.

Projected average burden estimates for the next three years:

Estimated Annual Number of Respondents: 91,425.

Average Expected Annual Number of Activities: 39.

Average Number of Respondents per Activity: 2,344.

Responses per Respondent: 1.

Annual Responses: 91,425.

Average Minutes per Response: 3 minutes.

Annual Burden Hours: 3,900 hours.

Frequency: On occasion.

Request for Comments: Agency and public comment is invited specifically on the need for and practical utility of this information collection, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). Comments received in response to this notice will be summarized for, and may be included with, the OGE generic information collection request. The comments will also become a matter of public record.

Approved: May 14, 2021.

Emory Rounds,

Director, U.S. Office of Government Ethics.

[FR Doc. 2021–10531 Filed 5–18–21; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0431]

Food and Drug Administration Public Meeting on Financial Efficiency of Human Drug User Fee Programs; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public meeting entitled ''FDA Public Meeting on Financial Efficiency of Human Drug User Fee Programs.'' The topic to be discussed is the financial transparency and efficiency of the Prescription Drug User Fee Act, the Biosimilar User Fee Act, and Generic Drug User Fee Amendments.

DATES: The public meeting will be held on June 18, 2021, from 9:30 a.m. to 11:30 a.m. Eastern Time via WebEx Events. Submit either electronic or written comments on this public meeting by July 19, 2021. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held virtually due to extenuating circumstances.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 19, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 19, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is 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–2021–N–0431 for ''FDA Public Meeting on Financial Efficiency of Human Drug User Fee Programs.'' 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: Monica Ellerbe, Food and Drug Administration, Office of Finance, Budget, Acquisition, and Planning, 4041 Powder Mill Rd., Rm. 72044, Beltsville,

MD 20750, 301–796–5276, *Monica.Ellerbe@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The meeting will include presentations from FDA on: (1) The 5-year plan for the Prescription Drug User Fee Act (PDUFA) VI, Biosimilar User Fee Act (BsUFA) II, and Generic Drug User Fee Amendments (GDUFA) II; (2) the Agency's progress in implementing resource capacity planning and modernized time reporting; and (3) the Agency's progress in addressing the findings from the independent third-party evaluation of the resource management associated with PDUFA, BsUFA, and GDUFA that concluded and was published in fiscal year (FY) 2019. This meeting is intended to satisfy FDA's commitment to host an annual public meeting in the third quarter of each fiscal year beginning in FY 2019 and can be found in the Commitment letters listed below (II.B.3 of PDUFA VI (p. 38), IV.B.3 of BsUFA II (p. 28), and VI.B.4 of GDUFA II (p.22)).

This public meeting is intended to meet performance commitments included in PDUFA VI, BsUFA II, and GDUFA II. These user fee programs were reauthorized as part of the FDA Reauthorization Act of 2017 (FDARA) signed by the President on August 18, 2017. The complete set of performance goals for each program are available at:

- *PDUFA VI program: https://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM511438.pdf*
- *BsUFA II program: https://www.fda.gov/downloads/forindustry/userfees/biosimilaruserfeeactbsufa/ucm521121.pdf*
- *GDUFA II program: https://www.fda.gov/downloads/forindustry/userfees/genericdruguserfees/ucm525234.pdf*

Each of these user fee programs includes a set of commitments related to financial management. These include commitments to publish a 5-year financial plan that should be updated annually, develop resource capacity planning capability and to modernize time reporting practices, and have a third-party evaluation of resource management practices for these user fee programs. In addition, each user fee program includes a commitment to host a public meeting in the third quarter of each fiscal year, beginning in FY 2019, to discuss specific topics.

II. Topics for Discussion at the Public Meeting

This meeting will provide FDA the opportunity to update interested public stakeholders on topics related to the financial management of PDUFA VI, BsUFA II, and GDUFA II. FDA will present the 5-year financial plans for each of these programs and update participants on the progress towards implementing resource capacity planning and modernizing its time reporting approach. In addition, FDA will provide an update on the Agency's progress in addressing the findings from the independent third-party evaluation of the resource management associated with PDUFA, BsUFA, and GDUFA that concluded and was published in FY 2019. To view the evaluation assessment report, please visit here: *https://www.fda.gov/media/127605/download.*

III. Participating in the Public Meeting

Registration: To register for the public meeting, please visit the following website: *https://www.surveymonkey.com/r/FDA_2021_User_Fees_Public_Meeting_Registration.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Persons interested in attending this public meeting must register by June 15, 2021, at 11:59 p.m. Eastern Time.

If you need special accommodations due to a disability, please contact Monica Ellerbe no later than June 15, 2021, 11:59 p.m. Eastern Time.

Streaming Webcast of the Public Meeting: The webcast for this public meeting is *https://fda1.webex.com/fda1/onstage/g.php?MTID=e1c96ecf18f93ce5f76a24967fa89af65;* Password: FDApm2021.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**).

Dated: May 14, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–10566 Filed 5–18–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–D–0351]

Chemotherapy-Induced Nausea and Vomiting: Developing Drugs for Prevention; Draft Guidance for Industry; 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 a draft guidance for industry entitled ''Chemotherapy-Induced Nausea and Vomiting: Developing Drugs for Prevention.'' This guidance addresses FDA's current thinking regarding clinical trials for drugs for the prevention of chemotherapy-induced nausea and vomiting (CINV) in adults, including recommendations for trial population, trial design, efficacy considerations, and clinical outcome assessments. This guidance details a recent change in our recommendations regarding the necessary evidence and recommended endpoint assessments needed to support a determination of efficacy for the indication of the prevention of CINV. Previously, drug development programs seeking an indication for the prevention of CINV typically selected a primary efficacy endpoint of complete response, defined as no vomiting and no use of rescue antiemetic medication, with additional direct evaluation of nausea frequency and severity positioned as exploratory assessments. To promote consistency and interpretability in the assessment of nausea both within and across development programs, FDA now recommends sponsors analyze a primary endpoint of complete response (*i.e.,* a binary endpoint defined as no vomiting and no use of rescue antiemetic medication) and a secondary endpoint of the absence of nausea (*i.e.,* a binary endpoint defined as no reported nausea and no use of rescue antiemetic medication) by evaluating the difference in the proportions of responders across treatment arms to establish efficacy for the prevention of CINV.

DATES: Submit either electronic or written comments on the draft guidance by July 19, 2021 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–0351 for ''Chemotherapy-Induced Nausea and Vomiting: Developing Drugs for Prevention.'' 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: Mary Chung, Center for Drug Evaluation and Research (HFD–580), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5350, Silver Spring, MD 20993–002, (301) 796–0260.

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Chemotherapy-Induced Nausea and Vomiting: Developing Drugs for Prevention.'' This draft guidance addresses FDA's current thinking regarding clinical trials for the prevention of CINV in adults, including recommendations for trial population, trial design, efficacy considerations, and clinical outcome assessments.

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 ''Chemotherapy-Induced Nausea and Vomiting: Developing Drugs for Prevention.'' 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. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in support of submission and review of data for applications for FDA review and approval of new drugs or therapeutic biologics under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) have been approved under OMB control numbers 0910–0014, 0910–0001, and 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs* or *https://www.regulations.gov.*

Dated: May 14, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–10573 Filed 5–18–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2019–N–5666, FDA–2011–N–0231, FDA–2010–N–0161, FDA–2011–N–0275, and FDA–2013–D–0575]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The following is a list of FDA information collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the internet at *http://www.reginfo.gov/public/do/PRAMain.* 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.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control No.	Date approval expires
Empirical Study of Promotional Implications of Proprietary Prescription Drug Names	0910–0896	4/30/2023
Adverse Experience Reporting for Licensed Biological Products; and General Records	0910–0308	4/30/2024
Export Certificates for FDA Regulated Products	0910–0498	4/30/2024
Certification to Accompany Drug, Biological Product, and Device Applications or Submissions	0910–0616	4/30/2024
Expedited Program for Serious Conditions-Drugs and Biologics	0910–0765	4/30/2024

Dated: May 14, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–10535 Filed 5–18–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2020–P–2244 and FDA–2020–P–2245]

Determination That ISOPTIN (Verapamil Hydrochloride) Tablets 40 Milligrams, 80 Milligrams, and 120 Milligrams, and CALAN (Verapamil Hydrochloride) Tablets, 40 Milligrams, 80 Milligrams, 120 Milligrams, and 160 Milligrams, 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, Agency, or we) has determined that ISOPTIN (verapamil hydrochloride) tablets, 40 milligrams (mg), 80 mg, and 120 mg, and CALAN (verapamil hydrochloride) tablets, 40 mg, 80 mg, 120 mg, and 160 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for ISOPTIN (verapamil hydrochloride) tablets, 40 mg, 80 mg, and 120 mg, and CALAN (verapamil hydrochloride) tablets, 40 mg, 80 mg, 120 mg, and 160 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Nikki Mueller, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6280, Silver Spring, MD 20993–0002, 301–796–3601, *Nicole.Mueller@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which 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.

ISOPTIN (verapamil hydrochloride) tablets, 40 mg, 80 mg, and 120 mg, are the subject of NDA 018593, held by Mt. Adams Technologies, LLC, and initially approved on March 8, 1982. CALAN (verapamil hydrochloride) tablets, 40 mg, 80 mg, 120 mg, and 160 mg, are the subject of NDA 018817, held by Pfizer Inc., and initially approved on September 10, 1984. ISOPTIN and CALAN are indicated for the treatment of angina, arrythmias, and essential hypertension.

Center Laboratories, Inc., submitted two citizen petitions dated November 30, 2020 (Docket Nos. FDA–2020–P–2244 and FDA–2020–P–2245), under 21 CFR 10.30, requesting that the Agency determine whether ISOPTIN (verapamil hydrochloride) tablets, 40 mg, 80 mg,

and 120 mg, and CALAN (verapamil hydrochloride) tablets, 40 mg, 80 mg, 120 mg, and 160 mg, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petitions and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that ISOPTIN (verapamil hydrochloride) tablets, 40 mg, 80 mg, and 120 mg, and CALAN (verapamil hydrochloride) tablets, 40 mg, 80 mg, 120 mg, and 160 mg, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that ISOPTIN (verapamil hydrochloride) tablets, 40 mg, 80 mg, and 120 mg, and CALAN (verapamil hydrochloride) tablets, 40 mg, 80 mg, 120 mg, and 160 mg, were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of ISOPTIN (verapamil hydrochloride) tablets, 40 mg, 80 mg, and 120 mg, and CALAN (verapamil hydrochloride) tablets, 40 mg, 80 mg, 120 mg, and 160 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that these drug products were not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list ISOPTIN (verapamil hydrochloride) tablets, 40 mg, 80 mg, and 120 mg, and CALAN (verapamil hydrochloride) tablets, 40 mg, 80 mg, 120 mg, and 160 mg, 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. ANDAs that refer to ISOPTIN (verapamil hydrochloride) tablets, 40 mg, 80 mg, and 120 mg, and CALAN (verapamil hydrochloride) tablets, 40 mg, 80 mg, 120 mg, and 160 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. 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: May 7, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–10552 Filed 5–18–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Evaluation of Office of Acquisitions System (OASYS) and FFRDC Contract Administration System (FCAS) Vendor Portals National Cancer Institute (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI) will publish periodic summaries of propose projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Marla Jacobson, 9609 Medical Center Drive, MSC 9742, Rockville, MD 20850 or call non-toll-free number 240–276–5267 or Email your request, including your address to: *marla.jacobson@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimizes the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Evaluation of Office of Acquisitions System (OASYS) and FFRDC Contract Administration System (FCAS) Vendor Portals National Cancer Institute (NCI), 0925–NEW, Expiration Date XX/XX/XXXX, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Cancer Institute (NCI) Office of Acquisitions (OA), located within the Office of the Director (OD) in the Office of Management (OM) at the National Cancer Institute (NCI), awards and administers contracts and simplified acquisitions in support of the Institute's mission to prevent, diagnose and treat cancer. During the acquisition process, the OA ensures that customer service is paramount, and communications are open and continuous. Currently requests and correspondence are sent to and received from vendors through email with the exception of the FFRDC Contractor who submits through the FCAS Vendor Portal which is in production. To streamline processes, increase transparency and gain efficiencies, the OA developed OASYS and FCAS vendor portals to replace processes that are handled through email (future OASYS Vendor Portal Users) and were (current FCAS Vendor Portal Users) to individual OA recipients. The FCAS Vendor Portal and in the future, the OASYS Vendor Portal will serve as a one-stop shop for transmission of requests, reports, deliverables and other correspondence due on numerous research and development, in support of R&D contracts as well as those contract vehicles awarded using various Federal Acquisition Procedures including but not limited to FAR Part 8, Required Sources of Supplies and Services, FAR Part 13, Simplified Acquisition Procedures, and FAR Part 12, Acquisition of Commercial Items. These reports and deliverables cover a wide variety of topics in the areas of cancer research including prevention, detection, diagnosis, and control.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 12,120.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Registration—OASYS	Corporations	400	1	8/60	53
Registration—FCAS	Corporations	400	1	8/60	53
Survey—OASYS	Individuals	120	1	6/60	12
Survey—FCAS	Individuals	120	1	6/60	12
Data Field Information—OASYS	Individuals	1,249	48	6/60	5,995
Data Field Information—FCAS	Individuals	1,249	48	6/60	5,995
Totals		3,538	120,944		12,120

Dated: May 13, 2021.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2021–10476 Filed 5–18–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–7: NCI Clinical and Translational Cancer Research.

Date: June 17–18, 2021.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W104, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Robert F. Gahl, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W104, Rockville, Maryland 20850, 240–276–7286, *robert.gahl@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–1 NCI Clinical and Translational Cancer Research.

Date: June 23, 2021.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: John Paul Cairns, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850, 240–276–5415, *paul.cairns@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI U01 Review: Integrating Biospecimen Science Approaches into Clinical Assay.

Date: June 29, 2021.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W116, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Klaus B. Piontek, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W116, Rockville, Maryland 20850, 240–276–5413, *klaus.piontek@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Aging, Cancer Initiating Cells, and Cancer Progression (U01).

Date: June 29, 2021.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W606, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Timothy C. Meeker, M.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W606, Rockville, Maryland 20850, 240–276–6464, *meekert@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–10: NCI Clinical and Translational Cancer Research.

Date: July 8, 2021.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W634, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Michael E. Lindquist, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W634, Rockville, Maryland 20850, 240–276–5735, *mike.lindquist@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; New Cohorts to Assess Environmental Exposures and Cancer Risk and Coordinating Center (UG3/UH3 and U24).

Date: July 13, 2021.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W624, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Timothy C. Meeker, M.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W624, Rockville, Maryland 20850, 240–276–6464, *meekert@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–3 NCI Clinical and Translational Cancer Research.

Date: July 20, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W120, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Majed M. Hamawy, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W120, Rockville, Maryland 20850, 240–276–6457, *mh101v@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; R13 Conference Grant Review.

Date: July 27, 2021.

Time: 11:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room

7W552, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Jeanette Irene Marketon, Ph.D., Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W552, Rockville, Maryland 20850, 240–276–6780, *jeanette.marketon@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Center Support Grant (P30).

Date: July 28, 2021.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W110, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Caterina Bianco, M.D., Ph.D., Chief, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, Rockville, Maryland 20850, 240–276–6459, *biancoc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 14, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10557 Filed 5–18–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NST 1 Overflow Grant Review.

Date: May 25, 2021.

Time: 9:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3204, MSC 9529, Rockville, MD 20852, (301) 496–0660, *benzingw@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 13, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10492 Filed 5–18–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Hearing & Balance Special Emphasis Panel Review.

Date: June 18, 2021.

Time: 3:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Kausik Ray, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (301) 402–3587, *rayk@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD Review of Translational Applications in Voice, Speech and Language.

Date: June 24, 2021.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shiguang Yang, DVM, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6001 Executive Blvd., Room 8349, Bethesda, MD 20892, (301) 496–8683, *yangshi@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Voice, Speech and Language Fellowship Review.

Date: June 30, 2021.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 6001 Executive Boulevard, Room 8351, Bethesda, MD 20892, (301) 451–6339, *kellya2@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 14, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10533 Filed 5–18–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket Number–2020–0048]

Agency Information Collection Activities: Solicitation of Proposal Information for Award of Public Contracts, 700–24, 700–25

AGENCY: Department of Homeland Security (DHS).

ACTION: 30-Day notice and request for comments; extension without change of a currently approved collection, 1600–0005.

SUMMARY: The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this information collection request (ICR) in the **Federal Register** on Monday, November 30, 2020 for a 60-day public comment period. No comment was received by DHS. The purpose of this notice is to allow additional 30-days for public comments.

DATES: Comments are encouraged and will be accepted until June 18, 2021. This process is conducted in accordance with 5 CFR 1320.1

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

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS) collects information, when necessary, when inviting firms to submit bids, proposals, and offers for public contracts for supplies and service. Using solicitation methods such as Requests for Proposals (RFP), Requests for Information (RFI), and Broad Agency Announcements (BAA), the Government requests information from prospective offerors such as pricing information, delivery schedule compliance, and evidence that the offeror has the resources (both human and financial) to accomplish requirements. The information collection is necessary for compliance with the Homeland Security Acquisition Regulation (HSAR), 48 CFR Chapter 30, and the Small Business Innovative Research (SBIR) and Small Business Technology Transfer (STTR) programs, 15 U.S.C 628.

The prior information collection request for OMB No. 1600–0005 was approved through November 30, 2021, and includes the following:

- 3052.209–70 Prohibition on Contracts with Corporate Expatriates *(Required in all solicitations and contracts)* The offeror must disclose whether it is a foreign incorporated entity that should be treated as an inverted domestic corporation.
- 3052.209–71 Reserve Officer Training Corps and Military Recruiting on Campus *(Required in all solicitations and contracts with institutions of higher education)* Requires that the Contractor represent that it does not now have, and agrees that during performance of the contract that it will not adopt, any policy or practice described in paragraph (b) of the clause.
- 3052.209–72 Organizational Conflict of Interest, paragraphs (c), (d) and (e), *(Required in all solicitations and contracts where a potential organizational conflict of interest exists and mitigation may be possible)* The offeror must disclose whether it is aware of any facts which create any actual or potential organizational conflicts of interest; and, provide information as required by the Government and a mitigation plan relating to the conflict, if applicable.
- 3052.209–74 Limitations on Contractors Acting as Lead System Integrators *(Required in solicitations for the acquisition of a major system when the acquisition strategy envisions the use of a lead system integrator)* The offeror must disclose whether it proposes to perform this contract as a lead system integrator with system responsibility, and whether it has a direct financial interest in the system that is the subject of the solicitation; and, provide evidence, as needed.
- 3052.209–76 Prohibition on Federal Protective Service (FPS) Guard Services Contracts with Business Concerns Owned, Controlled, or Operated by an Individual Convicted of a *Felony, paragraphs (a) through (g), (Required in in all solicitations and contracts for FPS guard services)* The offeror must disclose whether it is owned, operated or controlled by an individual convicted of any felony. A business concern owned, operated or controlled by an individual convicted of any felony may submit an award request to the Government. The request must include information that is considered personally identifiable information, and any additional information the Government deems necessary.
- 3052.215–70 Key Personnel and Facilities *(Required in solicitations and contracts when the selection for award is substantially based on the offeror's possession of special capabilities regarding personnel or facilities)* Before removing or replacing any of the specified individuals or facilities, the offeror must notify the Government, in writing, before the change becomes effective.
- 3052.219–72 Evaluation of Prime Contractor Participation in the DHS Mentor-Protégé Program *(Required in all solicitations containing (HSAR) 48 CFR 3052.219–71, DHS Mentor-Protégé Program and (FAR) 48 CFR 52.219–9 Small Business Subcontracting Plan)* The offeror must provide a signed letter of mentor-protégé agreement, if it wishes to receive credit under the source selection factor.
- 3052.247–70 F.o.b. Origin Information *(Required in solicitations as appropriate)* The offeror must provide information related to the offeror's shipping point.

The DHS Science and Technology (S&T) Directorate issues BAAs soliciting when white papers and proposals from the public. DHS S&T evaluates white papers and proposals received in response to a DHS S&T BAA using the evaluation criteria specified in the BAA through a peer or scientific review process in accordance with FAR 35.016(d). Unclassified white papers and proposals are typically collected via the DHS S&T BAA secure website, while classified white papers and proposals must be submitted via proper classified courier or proper classified mailing procedures as described in the National Industrial Security Program Operating Manual (NSPOM).

Federal agencies with an annual extramural research and development (R&D) budget exceeding $100 million are required to participate in the SBIR Program. Similarly, Federal agencies with an extramural R&D budget exceeding $1 billion are required to participate in the STTR Program. Federal agencies who participate in the SBIR and STTR programs must collect information from the public to meet:

(1) Applicable reporting requirements under 15 U.S.C. 638(b)(7), (g)(8), (i), (j)(1)(E), (j)(3)(C), (l), (o)(10), and (v);

(2) The requirement to maintain both a publicly accessible database of SBIR/STTR award information and a government database of SBIR/STTR award information for SBIR and STTR program evaluation under 15 U.S.C. 638 g(10, (k), (o) (9), and (o)(15); and

(3) Requirements for public outreach under 15 U.S.C. 638(j)(2)(F), (o)(14), and (s).

DHS is seeking to renew this collection, and revise it to add, for purposes of entering into other transaction agreements pursuant to 6 U.S.C. 391, 6 U.S.C. 596(1), and 49 U.S.C. 106(l)(6), Form 700–24, Other Transaction Agreement Solicitation, and Form 700–25, Other Transaction Agreement Solicitation Amendment. On the forms, respondents submit an Employer Identification Number, as well as the business' name, address and title. Respondents must also identify the authorized business representative's personal name, and must include a signature.

The information being collected is used by the Government's contracting officers and other acquisition personnel,

including technical and legal staff to determine the adequacy of technical and management approach, experience, responsibility, responsiveness, and expertise of the firms submitting offers; the identification of members of the public (*i.e.,* small businesses) who qualify for and are interested in participating in the DHS SBIR Program; and, provide the DHS SBIR Program Office necessary and sufficient information to determine whether proposals submitted by the public to the DHS SBIR Program meet the criteria for consideration under the program.

Failure to collect this information would adversely affect the quality of products and services DHS receives from contractors. Potentially, contracts would be awarded to firms without sufficient experience and expertise, thereby placing the Department's operations in jeopardy. Defective and inadequate contractor deliverables would adversely affect DHS's fulfillment of the mission requirements in all areas. Additionally, the Department would be unsuccessful in identifying small businesses with research and development (R&D) capabilities, which would adversely affect the mission requirements in this area.

Many sources of the requested information use automated word processing systems, databases, and web portals to facilitate preparation of material to be submitted and to post and collect information. It is common place within many of DHS's Components for submissions to be electronic as a result of implementation of e-Government initiatives.

Information technology (*i.e.,* electronic web portal) is used in the collection of information to reduce the data gathering and records management burden. DHS uses a secure website the public can use to propose SBIR research topics and submit proposals in response to SBIR solicitations. In addition, DHS uses a web portal to review RFIs and register to submit a white paper or proposal in response to a specific BAA. The data collection forms standardize the collection of information that is necessary and sufficient for the DHS SBIR Program Office to meet its requirements under 15 U.S.C. 638.

This information collection required by the HSAR and the SBIR and STTR programs may or may not involve small business contractors, depending on the particular transaction. The burden applied to small businesses has been reduced to the least burdensome commensurate with the DHS need for the information. In certain cases, information collection is done via a secure website which is intended to minimize burden for businesses (including small businesses) and other for-profit entities, and not-for-profit institutions. Small businesses and other small entities will be able to enter identifying information and subsequently update rather than resubmit the information via the internet.

Less frequent incidence of collecting such information as offerors' technical approach, management approach, experience statements, and resumes indicating level of expertise would negatively affect the quality of products and services DHS received from contractors. Potentially, contracts would be awarded to firms without sufficient experience and expertise, thereby placing the Department's operations in jeopardy.

Additionally, DHS collects information that is both necessary and sufficient to comply with 15 U.S.C. 638 and receive white papers and proposals from the public in response to BAAs. Failure to allow the public to submit information would diminish the ability of the DHS SBIR Program Office to meet its obligation for outreach as required by 15 U.S.C. 638, evaluate white papers and proposals in accordance with the criteria in the BAA and provide the respondents with the results of the evaluation. DHS/ALL/PIA–006 General Contact Lists dated June15, 2007 covers the basic contact information that must be collected for DHS. Other information collected will typically pertain to the contract itself, and not individuals. All information for this information collection is submitted voluntarily. However, sensitive information (*e.g.,* felony conviction information) may also be collected through this information collection. Due to this sensitivity, and the sensitivities regarding the procurement process as a whole, a new PIA is required to document and identify any potential risks associated with collecting this information.

There is no assurance of confidentiality provided to the respondents.

The burden estimates are based upon definitive proposals reported by DHS and its Components to the Federal Procurement Data System (FPDS) for FY 2019, and, for the forms, data reported by contracting activities related to single source DHS other transaction awards and modifications issued in FY 2019. No program changes occurred and there have been no changes to the information being collected. However, the burden was adjusted to reflect an agency adjustment increase of 13,206 in the number of respondents within DHS for FY 2019, to include the number of respondents added as a result of the new forms, as well as an increase in the average hourly wage rate.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security (DHS).

Title: Solicitation of Proposal Information for Award of Public Contracts.

OMB Number: 1600–0005.

Frequency: On occasion.

Affected Public: Private Sector.

Number of Respondents: 130,418.

Estimated Time per Respondent: 1.8.

Total Burden Hours: 1,358,512.

Robert Dorr,

Acting Executive Director, Business Management Directorate.

[FR Doc. 2021–10555 Filed 5–18–21; 8:45 am]

BILLING CODE 9112–FL–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–25]

30-Day Notice of Proposed Information Collection: Rental Assistance Demonstration (RAD): Supporting Contracts and Processing Requirements; OMB Control No.: 2502–0612

AGENCY: Office of the Chief Information Officer, Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection

requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: June 18, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/StartPrintedPage15501PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 18, 2020, at 86 FR 29739.

A. Overview of Information Collection

Title of Information Collection: Rental Assistance Demonstration (RAD); Supporting Contracts and Processing Requirements.

OMB Approval Number: 2502–0612.

OMB Expiration Date: 04/30/2020.

Type of Request: Reinstatement, with change, of previously approved collection for which approval has expired.

Form Numbers: 52611, 52614, 52617, 52619, 52620A, 52620B, 52621A, 52621B, 52624, 52625, 5679, 5977, 5978. *New Forms:* 5886, 5887, 5888, 5889, 5890, 5891, 5892, 5893, 5894, 5895, 5896, 5897, 5898, 5899, 5900, 5901, 5902, 5903, 5904.

Description of the need for the information and proposed use: RAD allows Public Housing, Mod Rehab, Rent Supp, RAP, and 202 PRAC properties to convert to long-term project-based Section 8 rental assistance contracts. Participation in the demonstration is voluntary and HUD approval is discretionary. Participating Public Housing Agencies (PHAs) and Multifamily Owners are required to submit documentation for processing and completing the conversion. Through these documents (collectively, the RAD documents), HUD evaluates whether the PHA or owner has met all of the requirements necessary to complete conversion as outlined in Housing Notice 2019–09/PIH Notice 2019–23 (HA) Rental Assistance Demonstration—Final Implementation Notice (RAD Notice) Revision 4 and Housing/PIH Notice 2016–17—Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component—Public Housing Conversions or successor notices. The RAD processing request is made through a Web-based portal. Overall, the RAD documents and information requested through such documents allow HUD to determine which applicants continue to meet the eligibility and conversion requirements. Finally, all applicants will be required to sign the appropriate contractual documents to complete conversion and bind both the applicant and HUD, as well as set forth the rights and duties of the applicant and HUD, with respect to the converted project and any payments under that project. This is a revision request of a currently approved collection. Several changes have been made under both components of RAD. The changes under the First Component of RAD are as follows: The inclusion of the RAD Application under this ICR (formerly under OMB Approval Number 2577–0278), the reorganization and streamlining of RAD Fair Housing, Civil Rights, and Relocation Submission Requirements, an update of all forms to reflect programmatic changes and improvements over the past three years, the replacement of a rider to an existing PBV HAP contract with a single contract form that incorporates all requirements into a single form, the creation of a survey of new contract voucher administrators to ensure that the amount of funding provided for converted properties is adequate, and the creation of a Post-Closing Completion Certification form for owners to document compliance with certain requirements. In addition, under the Second Component of RAD, the changes are as follows: The creation of the Submission of Interest for owners to connect with HUD for technical assistance, the creation of HAP contracts for the conversion of Project Rental Assistance Contract (PRAC) to PBRA and PBV as well as the new Elderly Housing Use Agreement to be recorded on PRAC properties that have converted through RAD, an update of all forms to reflect programmatic changes and improvements over the past three years, and the implementation of the Mod Rehab data, a collection of owner information requested. Both Components of RAD will now have the incorporation of a Conversion Plan under the Second Component, modeled after the Financing Plan used in the First Component. Both components will also now include a collection of a post-closing completion certification to monitor compliance with requirements agreed to, as part of the conversion, and ensuring that any and all record-keeping that PHAs and owners must undertake to comply with requirements under the RAD Notice is acknowledged under this ICR.

Respondents (i.e. affected public): Public housing agencies and multifamily owners.

Estimated Number of Respondents: 370.

Estimated Number of Responses: 370.

Frequency of Response: Once per application.

Average Hours per Response: 8.32.

Total Estimated Burden: 3,079.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–10515 Filed 5–18–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–27]

30-Day Notice of Proposed Information Collection: Public Housing Assessment System (PHAS) Appeals; PHAS Unaudited Financial Statement Submission Extensions; Assisted and Insured Housing Property Inspection Technical Reviews and Database Adjustments; OMB Control No. 2577–0257

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* June 18, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start Printed Page 15501PRAMain. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.*

FOR FURTHER INFORMATION CONTACT: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start Printed Page 15501PRAMain. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.*

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 9, 2021 at 86 FR 13581.

Overview of Information Collection

Title of Information Collection: Public Housing Assessment System (PHAS) Appeals; Public Housing and Multifamily Housing Technical Reviews and Database Adjustments; Assisted and Insured Housing property inspection Technical Reviews and Database Adjustments.

OMB Approval Number: 2577–0257.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–52306.

Description of the need for the information and proposed use: The collection of this information supports HUD's ongoing mission to provide safe, decent, and habitable housing to low income households. To ensure HUD's subsidized housing meets this criteria accurate data and information collection is required to provide an assessment reflective of the property's condition. Poorly performing PHAs may be subject to additional reporting requirements, may receive HUD assistance, and are subject to possible penalties. For the Office of Housing, accurate scores are vital to their monitoring and compliance efforts. Unacceptable property scores result in automatic penalties and referral for enforcement actions.

Pursuant to § 6(j)(2)(A)(iii) the United States Housing Act of 1937, as amended, HUD established procedures in the Public Housing Assessment System (PHAS) rule for a public housing agencies (PHAs) to appeal an overall PHAS score or a troubled designation (§ 902.69). The PHAS rule in §§ 902.24 and 902.68 also provides that under certain circumstances PHAs may submit a request for a database adjustment and technical review, respectively, of physical condition inspection results.

Pursuant to the Office of Housing Physical Condition of Multifamily Properties regulation at § 200.857(d) and (e), multifamily property owners also have the right, under certain circumstances, to submit a request for a database adjustment and technical review, respectively, of physical condition inspection results.

Appeals, when granted, change assessment scores and designations; database adjustments and technical reviews, when granted, change property physical condition scores. These changes result is more accurate assessments.

Section 902.60 of the PHAS rule also provides that, in extenuating circumstances, PHAs may request an extension of time to submit required unaudited financial information. When granted, an extension of time postpones the imposition of sanctions for a late submission.

Respondents (i.e. affected public): Public Housing Agencies (PHAs) and Multifamily Housing property owners (MF POs).

BURDEN HOUR ESTIMATES FOR RESPONDENTS FOR APPEALS, TRS AND DBAS

Type	Number of respondents	×	Frequency of response	Total responses	×	Estimated hours	=	Total annual burden hours
PHA Appeal	182	....	1	182	....	5	....	910
PHA Extension	79		1	79		0.17		13
PHA DBA	173		1	173		8		1,384
PHA TR	271		1	271		8		2,168
MF PO DBA	233		1	233		8		1,864
MF PO TR	876		1	876		8		7,008
Totals	1,814			1,814				13,347

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of

the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507 as amended.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–10517 Filed 5–18–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7038–N–02]

60-Day Notice of Proposed Information Collection: Housing Counseling Agency Activity Report; OMB Control No.: 2502—New

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* July 19, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Housing Counseling Agency Activity Report.

OMB Approval Number: 2502—NEW.

OMB Expiration Date: None.

Type of Request: New Collection.

Form Number: HUD–9902, Housing Counseling Agency Activity Report.

Description of the need for the information and proposed use: The purpose of this information is to collect data related to performance and impact on housing counseling performed by HUD-approved housing counseling agencies.

Information collected through the form HUD–9902 is critical as the data provided allows HUD to demonstrate program impact to Congress and the Office of Management and Budget (OMB). Additionally, the data collected on form HUD–9902 plays a key role in analyzing performance and capacity during the Office of Housing Counseling's Notice of Funding Availability (NOFA) process.

Respondents (i.e. affected public): Not-for-profit institutions; State, Local or Tribal Government.

Estimated Number of Respondents: 1,714.

Estimated Number of Responses: 1,714.

Frequency of Response: Quarterly (in a calendar year).

Average Hours per Response: .75 hours.

Total Estimated Burden: 2,566 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Janet M. Golrick,

Acting, Chief of Staff, Office of Housing—Federal Housing Administration.

[FR Doc. 2021–10520 Filed 5–18–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–26]

30-Day Notice of Proposed Information Collection: Public Housing Financial Management Template; OMB Control No. 2535–0107

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* June 18, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start Printed Page 15501PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 1, 2021 at 86 FR 12019.

A. Overview of Information Collection

Title of Information Collection: Public Housing Financial Management Template.

OMB Approval Number: 2535–0107.

Type of Request: Reinstatement of a previously approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: To meet the requirements of the Uniform Financial Standards Rule (24 CFR part 5, subpart H) and the asset management requirements in 24 CFR part 990, the Department developed financial management templates that public housing agencies (PHAs) use to annually submit electronically financial information to HUD. HUD uses the financial information it collects from each PHA to assist in the evaluation and assessment of the PHAs' overall condition. Requiring PHAs to report electronically has enabled HUD to provide a comprehensive financial assessment of the PHAs receiving federal funds from HUD.

Respondents: Public Housing Agencies (PHAs).

Estimated Annual Reporting and Recordkeeping Burden: The average burden hour estimate assumes that there are 3,916 PHAs (Low Rent Only, Low Rent and Section 8, and Section 8 only PHAs) that submit one unaudited financial management template annually. The average burden hours associated with an unaudited financial management template is 6.4 hours (25,015.5 total hours divided by 3,916 PHAs). There are 3,538 PHAs that are required to or voluntarily submit an audited financial management template annually. The average burden hours associated with an audited financial management template is 4.2 hours (14,705 total hours divided by 3,538 PHAs). When added together, the average burden hours for a PHA that submits both an unaudited and audited financial management template is 5.3 hours, for a total reporting burden of 39,721 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 as amended.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–10516 Filed 5–18–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORL00000.L10200000.XZ0000.LXSSH1050000.212.HAG 21–0031]

Notice of Public Meetings for the John Day-Snake and Southeast Oregon Resource Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management's (BLM) John Day-Snake and Southeast Oregon Resource Advisory Councils (RACs) will meet as follows.

DATES: The John Day-Snake and Southeast Oregon RACs will hold a joint meeting Thursday, June 24, 2021, from 8 a.m. to 5 p.m. (Pacific Time). The Southeast Oregon RAC will hold a meeting on Wednesday, June 23, 2021, from noon to 5 p.m. The John Day-Snake RAC will hold a meeting on Friday, June 25, 2021, from 8 a.m. to noon. A public comment period will be offered each day of the meetings.

ADDRESSES: The June meetings will be held at the Malheur National Forest, Supervisor's Office, 431 Patterson Bridge Road, John Day, OR 97845. If public health restrictions remain in place, the meetings will be held virtually.

The final agendas will be posted online at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/oregon-washington* at least 1 week before the meetings.

Written comments can be mailed to: BLM Lakeview District; Attn: Todd Forbes; 1301 South G Street; Lakeview, OR 97630. All comments received will be provided to the John Day-Snake and Southeast Oregon RAC members.

FOR FURTHER INFORMATION CONTACT: Lisa McNee, Public Affairs Specialist, 1301 South G Street, Lakeview, OR 97630; telephone: 541–947–6811; email: *lmcnee@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. McNee during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The John Day-Snake and Southeast Oregon RACs are chartered, and the 15 members are

appointed by the Secretary of the Interior. Their diverse perspectives are represented in commodity, non-commodity, and local interests. The RACs serve in an advisory capacity to BLM and U.S. Forest Service officials. All meetings are open to the public in their entirety. Information to be distributed to the RACs is requested before the start of each meeting.

The juristictional boundaries of the John Day-Snake and Southeast Oregon RACs encompass over half of the State of Oregon. The RACs address many similar public-land-management topics and find it beneficial to periodically hold joint meetings to network, share ideas, and receive information. Agenda items for the joint meeting include updates regarding the Southeastern Oregon and Lakeview Resource Management Plan Amendments processes; district updates, to include wild horses and burros, wildfire management, and the Great American Outdoors Act; and a presentation by the Oregon Department of Natural Resources on mule deer.

Agenda items for the Southeast Oregon RAC meeting include an overview of programmatic Environmental Impact Statements and Categorical Exclusions relating to land management in Oregon; briefings regarding environmental analyses, impact statements, and proposed management actions on the Lakeview, Burns, and Vale districts; and rangeland and grazing management. Agenda items for the John Day-Snake RAC meeting include campground and cabin rental recreation fees in the Wallowa-Whitman National Forest; district and national forest updates; and a discussion on motorized and nonmotorized trail access.

The public may address the John Day-Snake and Southeast Oregon RACs during the public comment portion of the meetings on June 23, 24 and June 25, 2021. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited.

Before including your address, phone number, email address, or other personal identifying information in your comments, please 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 we will be able to do so.

Authority: 43 CFR 1784.4–2.

James Forbes,

Lakeview District Manager.

[FR Doc. 2021–10486 Filed 5–18–21; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ910000.L12100000.XP0000 19X 6100.241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Arizona Resource Advisory Council (RAC) will meet as indicated below.

DATES: The RAC will hold a one-day virtual public meeting on July 22, 2021. The meeting will begin at 8:15 a.m. and adjourn at approximately 4:00 p.m. BLM staff will initiate the meeting at 8:00 a.m. to allow for check-in and technical assistance with the virtual platform.

ADDRESSES: The meeting will be held virtually. The meeting link will be made available at least one week before the meeting date on the RACs web page at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/arizona.*

FOR FURTHER INFORMATION CONTACT: Dolores Garcia, Public Affairs Specialist, at the BLM, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona, 85004–4427, telephone: 602–417–9241, or email: *dagarcia@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Garcia during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dolores Garcia no later than 2 weeks before the start of the meeting.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Arizona.

Agenda items will include updates on Department of the Interior priorities; Lands, Minerals and Energy Update, including an update on Renewable Energy; Natural Resources and Conservation Update; Recreation and Maintenance Update; and District Updates. The final agenda will be posted on the BLM Arizona RAC website at: *https://www.blm.gov/get-involved/resource-advisory-council/near-you/arizona.*

The meetings are open to the public, and a public comment period will be held. Depending on the number of persons wishing to comment and the time available, time allotted for individual oral comments may be limited. Written comments may be submitted in advance of the meeting to the BLM address [see **FOR FURTHER INFORMATION CONTACT**] or via email to *dagarcia@blm.gov.* Please include ''RAC Comment'' in your submission. All comments received will be provided to the Arizona RAC.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Detailed meeting minutes for the RAC meetings will be maintained in the BLM's Arizona State Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting. Previous minutes, membership information, and upcoming agendas are available at: *https://www.blm.gov/get-involved/resource-advisory-council/near-you/arizona.*

Authority: 43 CFR 1784.4–2.

Raymond Suazo,

Arizona State Director.

[FR Doc. 2021–10473 Filed 5–18–21; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–ACAD–31462; PPNEACADSO, PPMPSPDIZ.YM0000]

Acadia National Park Advisory Commission Notice of Public Meetings

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the National Park Service (NPS) is hereby giving notice that the Acadia National Park Advisory Commission (Commission) will meet as indicated below.

DATES: The Commission will meet: Monday, June 7, 2021; and Monday, September 13, 2021. All scheduled meetings will begin at 1:00 p.m. and will end by 4:00 p.m. (Eastern).

ADDRESSES: The June 7, 2021, meeting will be held at the headquarters conference room, Acadia National Park, 20 McFarland Hill Drive, Bar Harbor, Maine 04609. The September 14, 2021, meeting will be held at the Schoodic Education and Research Center, Winter Harbor, Maine 04693. A teleconference may substitute for an in-person meeting depending on local health restriction.

FOR FURTHER INFORMATION CONTACT: Michael Madell, Deputy Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, telephone (207) 288–8701 or email *michael_madell@nps.gov.*

The format of the meetings and locations are subject to change pending the COVID–19 pandemic and safety requirements.

SUPPLEMENTARY INFORMATION: The Commission was established by section 103 of Public Law 99–420, as amended, (16 U.S.C. 341 note), and in accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16). The Commission advises the Secretary and the NPS on matters relating to the management and development of Acadia National Park, including but not limited to, the acquisition of lands and interests in lands (including conservation easements on islands) and the termination of rights of use and occupancy.

The meetings are open to the public. Interested persons may make oral presentations to the Commission. Such requests should be made to the Superintendent at the beginning of each meeting. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Written comments can be sent to [see **FOR FURTHER INFORMATION CONTACT**]. All comments received will be provided to the Commission.

The Commission meeting locations may change based on inclement weather or exceptional circumstances. If a meeting location is changed, the Superintendent will issue a press release and use local newspapers to announce the change.

Purpose of the Meeting: The Commission meeting will consist of the following proposed agenda items:

1. Committee Reports:
   - Land Conservation
   - Park Use
   - Science and Education
   - Historic
2. Old Business
3. Superintendent's Report
4. Chairman's Report
5. Public Comments
6. Adjournment

Public Disclosure of Information: Before including your address, phone number, email address, or other personal identifying information in your comments, 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: 5 U.S.C. Appendix 2.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2021–10494 Filed 5–18–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR83550000, 212R5065C6, RX.59389832.1009676]

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Actions

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of contract actions.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and are new, discontinued, or completed since the last publication of this notice. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michelle Kelly, Reclamation Law Administration Division, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; *mkelly@usbr.gov;* telephone 303–445–2888.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of 1939, and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his or her designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to, (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director will furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Used in the Reports.

ARRA American Recovery and Reinvestment Act of 2009
BCP Boulder Canyon Project
Reclamation Bureau of Reclamation
CAP Central Arizona Project
CUP Central Utah Project
CVP Central Valley Project
CRSP Colorado River Storage Project
XM Extraordinary Maintenance
EXM Emergency Extraordinary Maintenance
FR Federal Register
IDD Irrigation and Drainage District
ID Irrigation District
M&I Municipal and Industrial
O&M Operation and Maintenance
OM&R Operation, Maintenance, and Replacement
P–SMBP Pick-Sloan Missouri Basin Program
RRA Reclamation Reform Act of 1982
SOD Safety of Dams
SRPA Small Reclamation Projects Act of 1956
USACE U.S. Army Corps of Engineers
WD Water District

MISSOURI BASIN—INTERIOR REGION 5: Bureau of Reclamation, P.O. Box 36900, Federal Building, 2021 4th Avenue North, Billings, Montana 59101, telephone 406–247–7752.

New contract actions:

44. Shoshone Municipal Pipeline, Shoshone Project, Wyoming: Consideration for renewal of water service contract No. 1–07–60–W0703.

45. Grey Reef Ranch, Kendrick Project, Wyoming: Consideration for renewal of excess capacity contract No. 14XX660043.

46. Garrison Diversion Conservancy District; Garrison Diversion Unit, P–SMBP; North Dakota: Consideration of a contract amendment to provide an additional 145 cubic-feet-per-second of water for rural and M&I purposes.

47. Glen Elder ID; Glen Elder Unit, P–SMBP; Kansas: Consideration of an amendment to change the amount of annual water supply in contract No. 199E630032.

Modified contract action:

16. Garrison Diversion Conservancy District; Garrison Diversion Unit, P–SMBP; North Dakota: Consideration of a contract amendment to provide 20 cubic-feet-per-second of water for rural and M&I purposes.

Discontinued contract actions:

24. P–SMBP; Montana, North Dakota, South Dakota, Wyoming, Nebraska, and Kansas: Renewal of contracts for the sale of Project Use Power to authorized entities.

25. Midvale ID; Riverton Unit, P–SMBP; Wyoming: Consideration of a new M&I water service contract.

Completed contract actions:

10. Lucerne Water and Sewer District, P–SMBP, Wyoming: Consideration for renewal of contract No. 1–07–60–WS091. Contract executed January 15, 2021.

16. Garrison Diversion Conservancy District; Garrison Diversion Unit, P–SMBP; North Dakota: Consideration of a contract amendment to provide 20 cubic-feet-per-second of water for rural and M&I purposes. Contract executed January 19, 2021.

22. Midvale ID; Riverton Unit, P–SMBP; Wyoming: Consideration of a request for a new contract for the District to continue the O&M of the transferred works of the Riverton Unit. Contract executed December 21, 2020.

23. Webster ID No. 4; Solomon Division, P–SMBP; Kansas: Consideration of a repayment contract for XM and replacement funded pursuant to Title IX, Subtitle G of Public Law 111–11. Contract executed January 24, 2021.

30. Griemsman L/S, LLC; Boysen Unit, P–SMBP; Wyoming: Consideration for renewal of water service contract No. 009E6A0012. Contract executed October 16, 2020.

34. Mid-Dakota Rural Water System, Inc., South Dakota: Consideration to amend agreement No. 5–07–60–W0223 to reflect the payoff of loans. Contract executed January 19, 2021.

40. Sidney Water Users ID, P–SMBP, Montana: Consideration of contract for the sale of Project Use Power authorized under Section 2 of the Act of October 30, 2020 (Pub. L. 116–191). Contract executed January 19, 2021.

41. Kinsey Irrigation Company, P–SMBP, Montana: Consideration of contract for the sale of Project Use Power authorized under Section 2 of the Act of October 30, 2020 (Pub. L. 116–191). Contract executed February 5, 2021.

UPPER COLORADO BASIN—INTERIOR REGION 7: Bureau of Reclamation, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

New contract action:

27. Taylor Hydro, LLC, Uncompahgre Project, Colorado: Preliminary lease and funding agreement for development of the lease of power privilege for hydropower development on the Taylor Park Dam. The purpose of this agreement is to receive funding from Taylor Hydro for Reclamation's assistance in the development of the lease of power privilege and identify timelines for the process.

Modified contract action:

4. Strawberry High Line Canal Company, Strawberry Valley Project; Utah: The Strawberry High Line Canal Company has requested to allow for the carriage of non-project water held by McMullin Orchards, dba South Shore Farms and Cherry Hill Farms in the High Line Canal.

Discontinued contract action:

24. Bostwick Park Water Conservancy District, Bostwick Park Project, Colorado: Preliminary lease and funding agreement for development of the lease of power privilege for hydropower development on the Silver Jack Dam Bypass Pipeline. The purpose of this agreement is to receive funding from the district for Reclamation's assistance in the development of the lease of power privilege and identify timelines for the process.

Completed contract action:

21. Navajo Tribal Utility Authority, Navajo-Gallup Water Supply Project, New Mexico: Reclamation is entering

negotiations with the Navajo Tribal Utility Authority to provide payment for OM&R costs for use of Federal facilities pursuant to Public Law 111–11, Section 10602(g). Contract executed March 3, 2021.

LOWER COLORADO BASIN—INTERIOR REGION 8: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

New contract actions:

17. GSC Farm, LLC, and the Town of Queen Creek, Arizona; BCP; Arizona: Enter into a proposed assignment and transfer of Arizona fourth-priority Colorado River water in the amount of 2,033.01 acre-feet per year from GSC to Queen Creek, amend GSC's Colorado River water delivery contract No. 13–XX–30–W0571 to decrease their Colorado River water entitlement from 2,913.3 to 69.93 acre-feet per year, enter into Colorado River water delivery contract No. 20–XX–30–W0689 with Queen Creek for 2,033.01 acre-feet per year of Arizona fourth-priority Colorado River water entitlement, and enter into a wheeling agreement between the United States and Queen Creek for the wheeling of non-project water to be transported through the CAP for the use or benefit of the Queen Creek.

2. Mohave Water Conservation District and the City of Bullhead City, Arizona; BCP; Arizona: Enter into a proposed contract No. 9–07–30–W0012, assignment of Arizona fourth-priority Colorado River water entitlement in the amount of 1,800 acre-feet per year from the District to Bullhead City and amend Bullhead City's Colorado River water delivery contract No. 2–07–30–W0273 to increase their Colorado River water entitlement from 15,210 to 17,010 acre-feet per year and increase the Bullhead City contract service area to include the District's land that previously received Colorado River water pursuant to contract No. 9–07–30–W0012.

COLUMBIA–PACIFIC NORTHWEST—INTERIOR REGION 9: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

New contract actions:

18. Irrigation water districts; Idaho, Washington, Oregon, Montana; and Wyoming: Temporary Warren Act contracts for terms of up to 5 years providing for use of excess capacity in Reclamation facilities for annual quantities exceeding 10,000 acre-feet.

19. Idaho, Washington, Oregon, Montana, and Wyoming: Aquifer Recharge Flexibility Act (Pub. L. 116–260) contracts that allow the use of excess capacity in Reclamation facilities for aquifer recharge of non-Reclamation project water.

CALIFORNIA–GREAT BASIN—INTERIOR REGION 10: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

The California-Great Basin—Interior Region 10 has no updates to report for this quarter.

Christopher Beardsley,

Director, Policy and Programs.

[FR Doc. 2021–10549 Filed 5–18–21; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR04084000, XXXR4081X1, RN.20350010.REG0000]

Colorado River Basin Salinity Control Advisory Council Notice of Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of Reclamation is publishing this notice to announce that a Federal Advisory Committee meeting of the Colorado River Basin Salinity Control Council (Council) will take place.

DATES: The Council will convene on Wednesday, June 9, 2021, at 1:00 p.m. Mountain Standard Time and adjourn at approximately 4:00 p.m. The Council will reconvene on Thursday, June 10, 2021, at 9:00 a.m. Mountain Standard Time and adjourn at 11:00 a.m. A public comment period will be held on both days.

ADDRESSES: Due to restrictions put in place to address the COVID 19 pandemic the meeting will be a virtual meeting. For information about accessing the meeting you must contact Mr. Kib Jacobson; see **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Kib Jacobson, telephone (801) 524–3753; email at *kjacobson@usbr.gov.*

SUPPLEMENTARY INFORMATION: The meeting of the Council is being held under the provisions of the Federal Advisory Committee Act of 1972. The Council was established by the Colorado River Basin Salinity Control Act of 1974 (Pub. L. 93–320) (Act) to receive reports and advise Federal agencies on implementing the Act.

Purpose of the Meeting: The purpose of the meeting is to discuss the accomplishments of Federal agencies and make recommendations on future activities to control salinity.

Agenda: Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report. The Bureau of Reclamation, Bureau of Land Management, U.S. Fish and Wildlife Service, and United States Geological Survey of the Department of the Interior; the Natural Resources Conservation Service of the Department of Agriculture; and the Environmental Protection Agency will each present a progress report and a schedule of activities on salinity control in the Colorado River Basin. The Council will discuss salinity control activities, the contents of the reports, and the Basin States Program created by Public Law 110–246, which amended the Act. A final agenda will be posted online at *https://www.usbr.gov/uc/progact/salinity/* at least one week prior to the meeting.

Meeting Accessibility: The meeting is open to the public. Individuals wanting access to the virtual meeting should contact Mr. Kib Jacobson (see **FOR FURTHER INFORMATION CONTACT**) no later than June 8, 2021, to receive instructions.

Public Comments: The Council chairman will provide time for oral comments from members of the public at the meeting. Individuals wanting to make an oral comment should contact Mr. Kib Jacobson (see **FOR FURTHER INFORMATION CONTACT**) to be placed on the public comment list. Members of the public may also file written statements with the Council before, during, or up to 30 days after the meeting either in person or by mail. To allow full consideration of information by Council members at this meeting, written comments must be provided to Mr. Kib Jacobson (see **FOR FURTHER INFORMATION CONTACT**) by June 4, 2021.

Public Disclosure of Personal Information: 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: 5 U.S.C. Appendix 2.

Wayne Pullan,

Regional Director, Upper Colorado Basin—Interior Region 7, Bureau of Reclamation.

[FR Doc. 2021–10501 Filed 5–18–21; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1265

Certain Fitness Devices, Streaming Components Thereof, and Systems Containing Same Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 13, 2021, on behalf of Dish DBS Corporation of Englewood, Colorado; Dish Technologies L.L.C. of Englewood, Colorado; and Sling TV L.L.C. of Englewood, Colorado. Supplements to the complaint were filed on April 29, 2021, and May 3, 2021. The complaint alleges violations of 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 fitness devices, streaming components thereof, and systems containing same by reason of infringement of certain claims of U.S. Patent No. 9,407,564 (''the '564 patent''); U.S. Patent No. 10,469,554 (''the '554 patent''); U.S. Patent No. 10,469,555 (''the '555 patent''); U.S. Patent No. 10,757,156 (''the '156 patent''); and U.S. Patent No. 10,951,680 (''the '680 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov*. Hearing impaired individuals are advised that information on this matter can be obtained 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 at *https://www.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION: *Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 13, 2021, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 3–8, 10, and 13–15 of the '564 patent; claims 16–25 and 30 of the '554 patent; claims 10–17 and 26–27 of the '555 patent; claims 1–12 of the '156 patent; and claims 14–16, 18–21, and 28–29 of the '680 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''fitness devices containing internet-streaming enabled video displays that are capable of using adaptive bit-rate streaming to stream content, internet-streaming enabled video displays that are capable of using adaptive bit-rate streaming to stream content and that are designed to be incorporated with fitness devices, and components thereof'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

DISH DBS Corporation, 9601 South Meridian Boulevard, Englewood, Colorado 80112

DISH Technologies L.L.C., 9601 South Meridian Boulevard, Englewood, Colorado 80112

Sling TV L.L.C., 9601 South Meridian Boulevard, Englewood, Colorado 80112

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

ICON Health & Fitness, Inc., 1500 S 1000 W, Logan, UT 84321

FreeMotion Fitness, Inc., 1500 S 1000 W, Logan, UT 84321

NordicTrack, Inc., 1500 S 1000 W, Logan, UT 84321

lululemon athletica inc., 1818 Cornwall Ave., Vancouver, British, Columbia, Canada V6J IC7

Curiouser Products Inc. d/b/a MIRROR, 1261 Broadway, #208, New York, NY 10001

Peloton Interactive, Inc., 125 West 25th Street, 11th Floor, New York, New York 10001

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease

and desist order or both directed against the respondent.

By order of the Commission.
Issued: May 13, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–10493 Filed 5–18–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–666 and 731–TA–1558 (Preliminary)]

Walk-Behind Snow Throwers From China; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of walk-behind snow throwers from China, provided for in subheading 8430.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the government of China.[2]

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in § 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under §§ 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under §§ 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On March 30, 2021, MTD Products Inc., Valley City, Ohio filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of walk-behind snow throwers from China and LTFV imports of walk-behind snow throwers from China. Accordingly, effective March 30, 2021, the Commission instituted countervailing duty investigation No. 701–TA–666 and antidumping duty investigation No. 731–TA–1558 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 6, 2021 (86 FR 17852). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission conducted its conference through written testimony and video conference on April 20, 2021. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on May 14, 2021. The views of the Commission are contained in USITC Publication 5197 (May 2021), entitled *Walk-Behind Snow Throwers from China: Investigation Nos. 701–TA–666 and 731–TA–1558 (Preliminary).*

By order of the Commission.

Issued: May 14, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–10570 Filed 5–18–21; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 86 FR 22026 (April 26, 2021) and 86 FR 22022 (April 26, 2021).

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities for CW–1 Application for Temporary Employment Certification; Comment Request

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed revision for the authority to conduct the information collection request (ICR) titled ''CW–1 Application for Temporary Employment Certification''; and related information collection and retention requirements (OMB Control Number 1205–0534), which covers Form ETA–9142C, Application for Temporary Employment Certification (Form ETA–9142C) with accompanying appendices, and Form ETA–9141C, Application for Prevailing Wage Determination (Form ETA–9141C). This action seeks a revision of the Form 9141C, and its instructions; the rest of the forms and instructions will be renewed without changes. This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by July 19, 2021.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained for free by contacting Brian Pasternak, Administrator, Office of Foreign Labor Certification, by telephone at 202–693–8200 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *ETA.OFLC.Forms@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by email at *ETA.OFLC.Forms@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, by telephone at 202–693–8200 (this is not a toll-free number) or by email at *ETA.OFLC.Forms@dol.gov.*

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for the revision to CW–1 Application for

Temporary Employment Certification, which is currently set to expire on October 31, 2021, and the renewal of the validity of all applicable forms, instructions, and electronic versions (OMB Control Number 1205–0534). DOL collects information through Form ETA–9142C, and appendices, and Form ETA–9141C, to carry out the responsibilities created for DOL under the Northern Mariana Islands U.S. Workforce Act of 2018 (Pub. L. 115–218) (The Workforce Act). DOL, in its continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program ensures the public provides all necessary data in the desired format, the reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Workforce Act provides that a petition to employ a nonimmigrant worker under the CW–1 visa classification may not be approved by the U.S. Department of Homeland Security unless the employer has received a temporary labor certification from DOL confirming the following: (1) There are not sufficient U.S. workers in the Commonwealth of the Northern Mariana Islands (CNMI) who are able, willing, qualified, and available at the time and place needed to perform the services or labor involved in the petition; and (2) the employment of a nonimmigrant worker who is the subject of a petition will not adversely affect the wages and working conditions of similarly employed U.S. workers. 48 U.S.C. 1806(d)(2)(A).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection unless OMB, under the PRA, approves it and the collection tool displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0534.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used. Specifically, during this renewal cycle, the Department is very interested in receiving public input with respect to the hourly burden associated with the administrative appeals of temporary employment certifications and prevailing wage determinations;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Revision.

Title of Collection: CW–1 Application for Temporary Employment Certification.

Forms: ETA–9142C and Appendices A, B and C; ETA–9141C.

OMB Control Number: 1205–0534.

Affected Public: Individuals or Households; Private Sector (businesses or other for profits); Not-for-profit Institutions; Government, State, Local and Tribal Governments.

Total Estimated Number of Annual Respondents: 1,310.

Annual Frequency: On Occasion.

Total Estimated Number of Annual Responses: 159,308.

Estimated Time per Response: Varies by form.

Total Estimated Annual Time Burden: 71,078.16 hours.

Total Estimated Annual Other Costs Burden: $111,798.44.

Suzan G. LeVine,

Principal Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2021–10529 Filed 5–18–21; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *April 1, 2021 through April 30, 2021.* Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a certification, or modify or affirm a negative determination.

Affirmative Determinations Regarding Applications for Reconsideration

The following Applications for Reconsideration have been received and granted. See 29 CFR 90.18(d). The group of workers or other persons showing an interest in the proceedings may provide written submissions to show why the determination under reconsideration should or should not be modified. The submissions must be sent no later than ten days after publication in Federal Register. to the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution

Avenue NW, Washington, DC 20210.
See 29 CFR 90.18(f).

TA–W No.	Subject firm	Location
95,932	Triumph Aerospace Structures	Tulsa, OK.

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

TA–W No.	Subject firm	Location	Impact date	Reason(s)
95,668	Parallon Employer LLC	Nashville, TN	2/6/2019	Worker Group Clarification.
95,668A	Parallon	Richmond, VA	2/6/2019	Worker Group Clarification.

Revised Determinations (After Affirmative Determination Regarding Application for Reconsideration)

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
95,143	AK Steel Corporation	Ashland, KY	9/4/2018

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
96,037	Rolls-Royce Crosspointe LLC	Prince George, VA	7/2/2019

I hereby certify that the aforementioned determinations were issued during the period of *April 1, 2021 through April 30, 2021.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 6th day of May 2021.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2021–10527 Filed 5–18–21; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *April 1, 2021 through April 30, 2021.* (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path

(i) The sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii)(I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services From a Foreign Country Path

(i)(I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e))must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1)of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**;

AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
96,710	Boomerang Tube, LLC, Liberty Plant Boomerang Tube, LLC and BTSCP, LLC.	Liberty, TX	February 5, 2020.
96,731	Parker Hannifin, Industrial Process Division	Tell City, IN	February 29, 2020.
96,847	Genex Cooperative	Ithaca, NY	April 13, 2020.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from

a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
95,764	Landis+Gyr Technology, Inc., Information Technology, Research & Development, Landis+Gyr AG, etc.	Alpharetta, GA	March 3, 2019.
95,764A	Landis+Gyr Technology, Inc., Information Technology, Supply Chain Mgmt, Research & Development, etc.	Pequot Lakes, MN	March 3, 2019.
96,302	Richmond Times, Advertising Production and Design Outsourcing, BH Media Group, Lee BHM Corp.	Richmond, VA	September 23, 2019.
96,302A	Fredericksburg Free Lance-Star, Advertising Production and Design Outsourcing, BH Media Group, Lee BHM Corp.	Fredericksburg, VA	September 23, 2019.
96,302B	Bristol Herald Courier, Advertising Production and Design Outsourcing, BH Media Group, Lee BHM Corp.	Bristol, VA	September 23, 2019.
96,302C	SWVA Today, Advertising Production and Design Outsourcing, BH Media Group, Lee BHM Corp.	Wytheville, VA	September 23, 2019.
96,404	Nationwide Mutual Insurance Company, P&C Commercial Lines Processing.	Des Moines, IA	September 25, 2019.
96,404A	Nationwide Mutual Insurance Company, P&C Commercial Lines Processing.	Canton, OH	September 25, 2019.
96,404B	Nationwide Mutual Insurance Company, P&C Commercial Lines Processing.	Gainesville, FL	September 25, 2019.
96,404C	Nationwide Mutual Insurance Company, P&C Commercial Lines Processing.	Harleysville, PA	September 25, 2019.
96,404D	Nationwide Mutual Insurance Company, P&C Commercial Lines Processing.	Raleigh, NC	September 25, 2019.
96,500	DIRECTV Latin America, LLC, California Broadcast Center AT&T Services, Inc.	El Segundo, CA	September 29, 2019.
96,521	Citibank, N.A., Enterprise Infrastructure Operations & Technology (EIO&T) NAM Citi's Realty Services Compliance & Control.	New York, NY	October 6, 2019.
96,545	Encompass Group, LLC, The Pillow Factory	Buffalo Grove, IL	October 8, 2019.
96,546	Ricoh USA, Inc., Technical Customer Support Division	McLean, VA	October 9, 2019.
96,564	Continental Automotive, Newport News Plant—Electronic Controls Business Unit Vitesco Technologies USA, LLC.	Newport News, VA	October 19, 2019.
96,652	Nidec Sankyo America Corporation	Shelbyville, IN	December 22, 2019.
96,653	HCL America, Inc., Engineering, Research & Development, and Digital Process Operations.	Boise, ID	December 24, 2019.
96,677	SunPower Manufacturing Oregon	Hillsboro, OR	January 21, 2020.
96,681	EquipNet Inc	Canton, MA	January 25, 2020.
96,696	Keihin Michigan Manufacturing, LLC	Mussey, MI	January 29, 2020.
96,716	Nidec	Paragould, AR	February 8, 2020.
96,720	Capgemini America, Inc., Financial Services	Rosemont, IL	February 10, 2020.
96,735	Learjet, Inc, Wichita Site	Wichita, KS	February 22, 2021.
96,748	Kerry	Fredericksburg, IA	February 24, 2020.
96,751	Flexitech, Inc	Bloomington, IL	February 25, 2020.
96,756	Monotype Imaging Inc., Accounting and Financial Reporting Group	Woburn, MA	February 28, 2020.
96,759	Bucyrus Precision Tech, Inc	Bucyrus, OH	March 1, 2020.
96,770	Hologic, Inc., Post Market Surveillance Team	Marlborough, MA	March 5, 2020.
96,772	BASF	Muskegon, MI	March 8, 2020.
96,775	Levolor, Inc., a subsidiary of Hunter Douglas	Ogden, UT	March 8, 2020.
96,776	Vestas Blades America, Inc	Brighton, CO	March 9, 2020.
96,777	Siemens Energy	Olean, NY	March 9, 2020.
96,786	Deluxe Corporation	Groton, MA	March 11, 2020.
96,787	BASF Corporation, West Memphis Dispersions and Resins	West Memphis, AR	March 11, 2020.
96,831	Metaldyne Powertrain Components, LLC, AAM Litchfield Manufacturing, Driveline Division AAM.	Litchfield, MI	April 5, 2020.
96,839	Webster Bank, N.A., Information Technology Department	New Britain, CT	April 8, 2020.
96,845	Schneider Electric	Foxboro, MA	April 13, 2020.
96,854	JMS Foodservice, LLC, a wholly-owned indirect subsidiary of The J.M. Smucker Company.	Suffolk, VA	April 15, 2020.
96,857	HYDRO Systems USA	Kent, WA	April 15, 2020.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
96,605	Aurora Flight Sciences Corporation, Aurora Research & Prototyping	Manassas, VA	November 9, 2019.
96,749	Selmet, Inc., a CPP Company	Albany, OR	February 24, 2020.

The following certifications have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
96,757	Woodgrain	Marion, VA	February 17, 2020.
96,761	Delaware Dynamics, LLC	Muncie, IN	January 29, 2020.
96,778	Trace-A-Matic Corporation	Houston, TX	January 29, 2020.
96,779	ProSource Trace-A-Matic LLC, a subsidiary of Trace-A-Matic Corporation.	Houston, TX	January 29, 2020.
96,780	TNN Manufacturing	Houston, TX	January 29, 2020.
96,791	Eastham Forge, Inc., a subsidiary of Eastham Enterprise, Inc	Beaumont, TX	January 29, 2020.
96,809	Cascade Wood Products, Inc	White City, OR	February 17, 2020.
96,811	Bright Wood Corporation	Madras, OR	February 17, 2020.
96,835	Novo Manufacturing, LJ Smith, LLC—Bowerston	Bowerston, OH	February 17, 2020.
96,836	Endura Products, Inc	Nacogdoches, TX	February 17, 2020.
96,855	Wincom, Incorporated	Blue Ash, OH	March 18, 2020.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the requirements of Trade Act section 222(a)(1) and (b)(1) (significant worker total/partial separation or threat of total/partial separation), or (e) (firms identified by the International Trade Commission), have not been met.

TA–W No.	Subject firm	Location	Impact date
96,550	Collins Aerospace (Rockwell Collins)	Wilsonville, OR.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
95,299	Dynegy Midwest Generation, LLC, Havana Power Plant, Dynegy Coal Holdco, Vistra Energy, Securitas, etc.	Havana, IL.	
95,764B	Landis+Gyr Technology, Inc., Customer Delivery, Landis+Gyr AG, Digital Intelligence Systems, LLC.	Alpharetta, GA.	
95,764C	Landis+Gyr Technology, Inc., Customer Delivery, Landis+Gyr AG, Pro Staff.	Pequot Lakes, MN.	
96,548	Hair Salon	Middletown, OH.	
96,565	Domtar A.W. LLC., Paper Division	Ashdown, AR.	
96,717	Comprehensive Decommissioning International	Plymouth, MA.	
96,747	Pierce Pacific Manufacturing Inc	Portland, OR.	
96,762	Clayton Manufacturing Company, Maintenance and Service Division	City of Industry, CA.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
96,556	Diversant working on-site at SAP America, Inc	Newton Square, PA.	

The following determinations terminating investigations were issued in cases where the petition regarding the investigation has been deemed invalid.

TA–W No.	Subject firm	Location	Impact date
96,622	Paul Hughes	Council Bluffs, IA.	
96,769	Col-fin Specialty Steel Corporation	Monaca, PA.	

The following determinations terminating investigations were issued because the worker group on whose behalf the petition was filed is covered under an existing certification.

TA–W No.	Subject firm	Location	Impact date
95,920	Parallon, Parallon Coder Group	Richmond, VA.	

I hereby certify that the aforementioned determinations were issued during the period of *April 1, 2021 through April 30, 2021.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 6th day of May 2021.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2021–10526 Filed 5–18–21; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Administrator of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Administrator, Office of Trade Adjustment Assistance, at the address shown below, no later than June 1, 2021.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Administrator, Office of Trade Adjustment Assistance, at the address shown below, not later than June 1, 2021.

The petitions filed in this case are available for inspection at the Office of the Administrator, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC this 6th day of May 2021.

Hope D. Kinglock

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

62 TAA Petitions Instituted Between 4/1/21 and 4/30/21

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
96818	Waddell and Reed, Inc. (State Official)	Mission, KS	01–Apr–2021	31–Mar–2021.
96819	Micro Contacts, Inc. DBA Micro Technologies (State Official).	Hicksville, NY	01–Apr–2021	31–Mar–2021.
96820	Clarios (Union Official)	Canby, OR	01–Apr–2021	31–Mar–2021.
96821	Pacific Wood Laminates, a subsidiary of South Coast Lumber Company (State Official).	Brookings, OR	02–Apr–2021	01–Apr–2021.
96822	XPO Logistics (American Job Center)	Hazelwood, MO	02–Apr–2021	01–Apr–2021.
96823	GCI Communication Corporation (Authorized Representative).	Anchorage, AK	02–Apr–2021	01–Apr–2021.
96824	Aetna Resources, LLC (State Official)	Middletown, CO	02–Apr–2021	01–Apr–2021.
96825	Greater Machining and Manufacturing (State Official)	Independence, IA	02–Apr–2021	01–Apr–2021.
96826	Lucite International (State Official)	Nederland, TX	02–Apr–2021	01–Apr–2021.
96827	Acme Industries, Inc. (State Official)	Elk Grove Village, IL	02–Apr–2021	01–Apr–2021.
96828	Scot Forge Company (State Official)	Spring Grove, IL	02–Apr–2021	01–Apr–2021.
96829	Finkl Steel (State Official)	Chicago, IL	02–Apr–2021	01–Apr–2021.
96830	Eaton Corporation (State Official)	Wilsonville, OR	06–Apr–2021	05–Apr–2021.
96831	Metaldyne Powertrain Components, LLC (Company Official)	Litchfield, MI	06–Apr–2021	05–Apr–2021.
96832	STTS USA, Inc. (Satys) (State Official)	Portland, OR	06–Apr–2021	05–Apr–2021.
96833	ICC Northwest, Inc. (State Official)	Canby, OR	07–Apr–2021	06–Apr–2021.
96834	H.W. Metal Products, Inc. (State Official)	Tualatin, OR	07–Apr–2021	06–Apr–2021.
96835	Novo Manufacturing (State Official)	Bowerston, OH	07–Apr–2021	06–Apr–2021.
96836	Endura Products, Inc. (State Official)	Nacogdoches, TX	08–Apr–2021	07–Apr–2021.
96837	GP Strategies Corporation (State Official)	Bloomington, IN	08–Apr–2021	07–Apr–2021.
96838	Cleveland Cliffs Steel Corporation (State Official)	Dearborn, MI	08–Apr–2021	07–Apr–2021.
96839	Webster Bank, N.A. (State Official)	New Britain, CT	08–Apr–2021	08–Apr–2021.
96840	Kobelco Construction Machinery USA, Inc. (State Official) ...	MOORE, SC	09–Apr–2021	08–Apr–2021.
96841	Earle M. Jorgensen Company (Union Official)	Bedford Heights, OH	12–Apr–2021	11–Apr–2021.

62 TAA PETITIONS INSTITUTED BETWEEN 4/1/21 AND 4/30/21—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
96842	TTEC Healthcare Solutions, LLC (State Official)	Weber City, VA	13–Apr–2021	09–Apr–2021.
96843	Sykes (State Official)	Boise, ID	13–Apr–2021	12–Apr–2021.
96844	Moovel North America, LLC (State Official)	Portland, OR	14–Apr–2021	13–Apr–2021.
96845	Schneider Electric (Company Official)	Foxboro, MA	14–Apr–2021	13–Apr–2021.
96846	Patriot Converting (State Official)	Newton, IA	14–Apr–2021	13–Apr–2021.
96847	Genex Cooperative (State Official)	Ithaca, NY	14–Apr–2021	13–Apr–2021.
96848	Clarios Recycling (State Official)	Florence, SC	15–Apr–2021	14–Apr–2021.
96849	Sanfacon Virginia (State Official)	Brookneal, VA	15–Apr–2021	09–Apr–2021.
96850	Power Drives, Inc	Erie, PA	16–Apr–2021	15–Apr–2021.
96851	Evraz Rocky Mountain Steel (State Official)	Pueblo, CO	16–Apr–2021	15–Apr–2021.
96852	Continental Automotive Systems Inc. (Company Official)	Fletcher, NC	16–Apr–2021	15–Apr–2021.
96853	Mondelez International Inc. Atlanta Bakery (Union Official)	Atlanta, GA	16–Apr–2021	15–Apr–2021.
96854	JMS Foodservice, LLC, a wholly-owned indirect subsidiary of The J.M. Smucker Company (State Official).	Suffolk, VA	16–Apr–2021	15–Apr–2021.
96855	Wincom, Incorporated (State Official)	Blue Ash, OH	16–Apr–2021	15–Apr–2021.
96856	ISSPro, Inc. (State Official)	Portland, OR	16–Apr–2021	15–Apr–2021.
96857	HYDRO Systems USA (State Official)	Kent, WA	16–Apr–2021	15–Apr–2021.
96858	Capitol Manufacturing Company, LLC (State Official)	Crowley, LA	19–Apr–2021	16–Apr–2021.
96859	Woodgrain (State Official)	La Grande, OR	19–Apr–2021	16–Apr–2021.
96860	Synchrony Bank (Company Official)	Charlotte, NC	19–Apr–2021	16–Apr–2021.
96861	Woodgrain (State Official)	Pilot Rock, OR	20–Apr–2021	19–Apr–2021.
96862	Jeld-Wen, Inc. (State Official)	Bend, OR	20–Apr–2021	19–Apr–2021.
96863	Jetech Inc. (State Official)	Battle Creek, MI	20–Apr–2021	19–Apr–2021.
96864	Endo International, PLC/Par Pharmaceutical Holdings (State Official).	Chestnut Ridge, NY	21–Apr–2021	20–Apr–2021.
96865	Endo International, PLC/Par Pharmaceutical Holdings (State Official).	Chestnut Ridge, NY	21–Apr–2021	20–Apr–2021.
96866	Nference, Inc. (fka Lumen Biomics) (State Official)	Cambridge, MA	21–Apr–2021	20–Apr–2021.
96867	voestalpine Rotec (State Official)	Lafayette, IN	22–Apr–2021	21–Apr–2021.
96868	Colorado Oil & Gas Association (American Job Center)	Denver, CO	22–Apr–2021	21–Apr–2021.
96869	Pitney Bowes (State Official)	Shelton, CT	22–Apr–2021	21–Apr–2021.
96870	Bright Wood Corporation (State Official)	Culver, OR	22–Apr–2021	21–Apr–2021.
96871	Beck Steel Inc. (State Official)	Lubbock, TX	26–Apr–2021	23–Apr–2021.
96872	Allegheny Wood Products, Inc. (Company Official)	Beckley, WV	26–Apr–2021	21–Apr–2021.
96873	TTEC Services Corporation (State Official)	Englewood, CO	28–Apr–2021	27–Apr–2021.
96874	Daktronics Inc. (Company Official)	Brookings, SD	28–Apr–2021	27–Apr–2021.
96875	NewPark Drilling Fluids, LLC. (American Job Center)	Denver, CO	28–Apr–2021	27–Apr–2021.
96876	TD Bank (Company Official)	Mount Laurel, NJ	30–Apr–2021	28–Apr–2021.
96877	Frontier Communications (State Official)	Allen, TX	30–Apr–2021	28–Apr–2021.
96878	MUFG Union Bank, NA (State Official)	Jersey City, NJ	30–Apr–2021	29–Apr–2021.
96879	Eaton (State Official)	Belmond, IA	30–Apr–2021	29–Apr–2021.

[FR Doc. 2021–10521 Filed 5–18–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Transition Assistance Program Employment Navigator and Partnership Pilot, New Collection

AGENCY: Office of the Assistant Secretary for Policy, Chief Evaluation Office, Department of Labor.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents is properly assessed. Currently, DOL is soliciting comments concerning the collection of data about the Transition Assistance Program Employment Navigator and Partnership Pilot evaluation. A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 19, 2021.

ADDRESSES: You may submit comments by either one of the following methods: *Email: ChiefEvaluationOffice@dol.gov; Mail or Courier:* Janet Javar, Chief Evaluation Office, OASP, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW, Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and OMB Control Number identified above for this information collection. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Janet Javar by email at

ChiefEvaluationOffice@dol.gov or by phone at (202) 693–5954.

SUPPLEMENTARY INFORMATION:

I. Background

The Chief Evaluation Office (CEO) of the U.S. Department of Labor (DOL) intends to design and conduct an evaluation of a new DOL-funded initiative called the Transition Assistance Program (TAP) Employment Navigator and Partnership Pilot (ENPP). The goal of this study is to assess the feasibility of delivering individualized career counseling to transitioning service members (TSMs) and military spouses. The ENPP addresses a requirement of the 2019 National Defense Authorization Act (NDAA) to offer individual counseling as part of the transition process for the TAP.

The ENPP study is comprised of a formative and early implementation evaluation to assess the fidelity of implementation across approximately 13 sites; identify promising practices and challenges that arise during implementation; understand how cooperation and coordination among relevant stakeholder groups can be reinforced to improve program outcomes; and document how trainings, direct services, and warm handovers/connections can be enhanced prior to program expansion to additional military bases. Additionally, findings from the study may be used to add contextual depth and understanding to the interpretation of findings from DOL's measurement of ENPP outcomes.

This **Federal Register** Notice provides the opportunity to comment on proposed data collections that will be used in the evaluation: TAP manager focus group; program partner focus group; military spouse participant focus group; TSM (post-Navigator) participant focus group; TSM (post-Partner) participant focus group; and program Employment Navigator focus group.

1. *TAP manager focus group.* Virtual focus group with TAP managers to collect perceptions of effectiveness of communication and outreach strategies.

2. *Program partner focus group.* Virtual focus group with partners to collect satisfaction with onboarding process, connections, and data systems.

3. *Military spouse participant focus group.* Virtual focus group with military spouses to collect perceptions of communication and outreach strategies, satisfaction with scheduling logistics, and the services received from the Employment Navigator.

4. *TSM (post-Navigator) participant focus group.* Virtual focus group with enlisted TSMs to collect perceptions of communication and outreach strategies, satisfaction with scheduling logistics, and the services received from the Employment Navigator.

5. *TSM (post-Partner) participant focus group.* Virtual focus group with enlisted TSMs to collect perceptions of match between services desired and received, the appropriateness of the services, and whether they would recommend the program.

6. *Program Employment Navigator focus group.* Virtual focus group with Employment Navigators to collect perceptions of their overall preparedness to deliver services, the data systems they use, and perceptions of the partners they've worked with.

II. Desired Focus of Comments

Currently, DOL is soliciting comments concerning the above data collection for the Employment Navigator and Partnership Pilot (ENPP) study. DOL is particularly interested in comments that do the following:

○ Evaluate whether the proposed collection of information is necessary for the proper performance functions of the agency, including whether the information will have practical utility;

○ evaluate the accuracy of the agency's burden estimate of the proposed information collection, including the validity of the methodology and assumptions;

○ enhance the quality, utility, and clarity of the information to be collected; and

○ minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology—for example, permitting electronic submissions of responses.

III. Current Actions

At this time, the Department of Labor is requesting clearance for the TAP manager focus group; program partner focus group; military spouse participant focus group; TSM (post-Navigator) participant focus group; TSM (post-Partner) participant focus group; and program Employment Navigator focus group.

Type of Review: New information collection request.

OMB Control Number: 1290–NEW.

Affected Public: Employment Navigator and Partnership Pilot (ENPP) staff, program partners, and participants.

Comments submitted in response to this request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

ESTIMATED ANNUAL BURDEN HOURS

Type of instrument (form/activity)	Number of respondents	Number of responses per respondent	Total number of responses	Average burden time per response (hours)	Estimated burden hours
TAP manager focus group protocol	[1] 15	1	15	1.5	23
Program partner focus group protocol	[2] 24	1	24	1.5	36
Military spouse participant focus group protocol	[3] 21	1	21	1.5	32
TSM (post-Navigator) participant focus group protocol	[4] 29	1	29	1.5	44
TSM (post-Partner) participant focus group protocol	[5] 21	1	21	1.5	32
Program Employment Navigator focus group protocol	[6] 17	1	17	1.5	26
Total	127		127		191

[1] Assumes virtual focus groups with approximately 30 TAP managers at approximately 13 sites over the two-year clearance period.
[2] Assumes virtual focus groups with approximately 48 program partners over the two-year clearance period.
[3] Assumes virtual focus groups with approximately 42 military spouse participants at approximately 13 sites over the two-year clearance period.
[4] Assumes virtual focus groups with approximately 58 transitioning service members at approximately 13 sites over the two-year clearance period.
[5] Assumes virtual focus groups with approximately 42 transitioning service members at approximately 13 sites over the two-year clearance period.
[6] Assumes virtual focus groups with approximately 34 program Employment Navigators at approximately 13 sites over the two-year clearance period.

Christina Yancey,

Chief Evaluation Officer, U.S. Department of Labor.

[FR Doc. 2021–10525 Filed 5–18–21; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0042]

TUV Rheinland of North America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for TUV Rheinland of North America, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on May 19, 2021.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of TUV Rheinland of North America, Inc. (TUVRNA), as a NRTL. TUVRNA's expansion covers the addition of nine test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including TUVRNA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVRNA submitted an application, dated June 19, 2019 (OSHA–2007–0042–0045), to expand recognition to include the addition of nine test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing TUVRNA's expansion applications in the **Federal Register** on March 15, 2021 (86 FR 14342). The agency requested comments by March 30, 2021, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of TUVRNA's scope of recognition.

To obtain or review copies of all public documents pertaining to TUVRNA's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. Docket No. OSHA–2007–0042 contains all materials in the record concerning TUVRNA's recognition. Please note: Due to the COVID–19 pandemic, the Docket Office is closed to the public at this time but can be contacted at (202) 693–2350.

II. Final Decision and Order

OSHA staff examined TUVRNA's expansion application, their capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that TUVRNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant TUVRNA's scope of recognition. OSHA limits the expansion of TUVRNA's recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1 below.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN TUVRNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 62841–1	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Safety—Part 1: General Requirements.
UL 62841–2–2	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Safety—Part 2–2: Particular Requirements for Hand-Held Screwdrivers And Impact Wrenches.
UL 62841–2–4	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Safety—Part 2–4: Particular Requirements for Hand-Held Sanders And Polishers Other Than Disc Type.
UL 62841–2–5	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Safety—Part 2–5: Particular Requirements for Hand-Held Circular Saws.
UL 62841–2–9	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Safety—Part 2–9: Particular Requirements for Hand-Held Tappers and Threaders.
UL 62841–2–14	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Safety—Part 2–14: Particular Requirements for Hand-Held Planers.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN TUVRNA'S NRTL SCOPE OF RECOGNITION—Continued

Test standard	Test standard title
UL 62841–3–1	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Safety—Part 3–1: Particular Requirements for Transportable Table Saws.
UL 62841–3–9	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Safety—Part 3–9: Particular Requirements for Transportable Mitre Saws.
UL 62841–3–10	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Safety—Part 3–10: Particular Requirements For Transportable Cut-Off Machines.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standard listed above as an American National Standard. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, TUVRNA must abide by the following conditions of the recognition:

1. TUVRNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. TUVRNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. TUVRNA must continue to meet the requirements for recognition, including all previously published conditions on TUVRNA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of TUVRNA, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020) and 29 CFR 1910.7.

Signed at Washington, DC, on May 12, 2021.

James S. Frederick,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–10524 Filed 5–18–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0042]

CSA Group Testing & Certification Inc.: Grant of Expansion of Recognition and Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for CSA Group Testing & Certification Inc., as a Nationally Recognized Testing Laboratory (NRTL). Additionally, OSHA announces the final decision to add four new test standards to the NRTL Program's List of Appropriate test standards.

DATES: The expansion of the scope of recognition becomes effective on May 19, 2021.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone (202) 693–1999 or email *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone (202) 693–2110 or email *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of CSA Group Testing & Certification Inc. (CSA) as a NRTL. CSA's expansion covers the addition of twenty-one test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes an application by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A, 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These

notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including CSA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

CSA submitted an application, dated January 24, 2018 (OSHA–2006–0042–0019), to expand their recognition to include twenty-two additional test standards. OSHA staff performed detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing CSA's expansion application in the **Federal Register** on February 23, 2021 (86 FR 11005). The agency requested comments by March 10, 2021, but it received no comments in response to this notice. Due to an error, the title of one of the standards, UL 347A, was listed incorrectly in the preliminary notice. As a result, OSHA will not include UL 347A in the list of standards added to the expanded recognition. OSHA will publish an additional notice to announce the correct title of UL 347A to afford the public an opportunity to comment.

To obtain or review copies of all public documents pertaining to the CSA's application, go to *http://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. Docket No. OSHA–2006–0042 contains all materials in the record concerning CSA's recognition. *Please note:* Due to the COVID–19 pandemic, the Docket Office is closed to the public at this time but can be contacted at (202) 693–2350.

II. Final Decision and Order

OSHA staff examined CSA's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that CSA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed in this notice. OSHA, therefore, is proceeding with this final notice to grant CSA's expanded scope of recognition. OSHA limits the expansion of CSA's recognition to testing and certification of products for demonstration of conformance to the test standards listed below in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN CSA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 61010–2–030	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–030: Particular Requirements for Testing and Measuring Circuits.
UL 61010–2–032* ...	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–032: Particular Requirements for Hand-Held and Hand-Manipulated Current Sensors for Electrical Test and Measurement.
UL 61010–2–033* ...	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–033: Particular Requirements for Hand-Held Multimeters for Domestic and Professional Use, Capable of Measuring Mains Voltage.
UL 61010–2–040* ...	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–040: Particular Requirements for Sterilizers and Washer-Disinfectors Used to Treat Medical Materials.
UL 61010–2–081	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–081: Particular Requirements for Automatic and Semi-Automatic Laboratory Equipment for Analysis and Other Purposes.
UL 61010–2–101	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–101: Particular Requirements for In Vitro Diagnostic (IVD) Medical Equipment.
UL 61010–2–201* ...	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–201: Particular Requirements for Control Equipment.
UL 61010–031	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 031: Safety Requirements for Hand-Held and Hand-Manipulated Probe Assemblies for Electrical Test and Measurement.
UL 62841–1	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 1: General Requirements.
UL 62841–2–2	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–2: Particular Requirements for Hand-Held Screwdrivers and Impact Wrenches.
UL 62841–2–4	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–4: Particular Requirements for Hand-Held Sanders and Polishers Other than Disc Type.
UL 62841–2–5	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Law and Garden Machinery—Safety—Part 2–5: Particular Requirements for Hand-Held Circular Saws.
UL 62841–2–8	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–8: Particular Requirements for Hand-Held Shears and Nibblers.
UL 62841–2–9	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–9: Particular Requirements for Hand-Held Tappers and Threaders.
UL 62841–2–14	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–14: Particular Requirements for Hand-Held Planers.
UL 62841–3–1	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–1: Particular Requirements for Transportable Table Saws.
UL 62841–3–6	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–6: Particular Requirements for Transportable Diamond Drills with Liquid System.
UL 62841–3–9	Standard for Electric Motor-Operated Hand-Held Tools, and Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–9: Particular Requirement for Transportable Mitre Saws.
UL 62841–3–10	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–10: Particular Requirement for Transportable Cut-Off Machines.
UL 60950–22	Information Technology Equipment—Safety—Part 22: Equipment to be Installed Outdoors.
UL 8750	Light Emitting Diode (LED) Equipment for Use in Lighting Products.

* Represents the standards that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards.

In this notice, OSHA also announces the final decision to add four new test standards to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standards that are new to the NRTL Program. OSHA determined that these test standards are appropriate test standards and will add them to the NRTL Program's List of Appropriate Test Standards.

TABLE 2—TEST STANDARDS OSHA IS ADDING TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 61010–2–032	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–032: Particular Requirements for Hand-Held and Hand-Manipulated Current Sensors for Electrical Test and Measurement.
UL 61010–2–033	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–033: Particular Requirements for Hand-Held Multimeters for Domestic and Professional Use, Capable of Measuring Mains Voltage.
UL 61010–2–040	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–040: Particular Requirements for Sterilizers and Washer-Disinfectors Used to Treat Medical Materials.
UL 61010–2–201	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–201: Particular Requirements for Control Equipment.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, CSA must abide by the following conditions of the recognition:

1. CSA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. CSA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. CSA must continue to meet the requirements for recognition, including all previously published conditions on CSA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of CSA as a NRTL, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on May 13, 2021.

James S. Frederick,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–10522 Filed 5–18–21; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0035]

Information Collection: Requirements for Renewal of Operating Licenses for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants.''

DATES: Submit comments by July 19, 2021. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0035. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David 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.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0035 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–2021–0035. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2021–0035 on this website.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML21004A095.

• *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), 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 NRC's Clearance Officer, David 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

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0035 in your comment submission.

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Part 54 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants.''

2. *OMB approval number:* 3150–0155.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* There is a one-time application for any licensee wishing to renew the operating license for its nuclear power plant. There is a one-time requirement for each licensee with a renewed operating license to submit a letter documenting the completion of inspection and testing activities. All holders of renewed licenses must perform yearly record keeping.

6. *Who will be required or asked to respond:* Commercial nuclear power plant licensees who wish to renew their operating licenses and holders of renewed licenses.

7. *The estimated number of annual responses:* 66 (11 reporting responses + 55 recordkeepers).

8. *The estimated number of annual respondents:* 62 (1 initial license renewal application + 1 subsequent license renewal application + 5 completion letters + 55 recordkeepers).

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 216,700 (160,200 hours reporting + 56,500 hours recordkeeping).

10. *Abstract:* 10 CFR part 54 establishes license renewal requirements for commercial nuclear power plants and describes the information that licensees must submit to the NRC when applying for a license renewal. The application must contain information on how the licensee will manage the detrimental effects of age-related degradation on certain plant systems, structures, and components to continue the plant's safe operation during the renewal term. The NRC needs this information to determine whether the licensee's actions will be effective in assuring the plants' continued safe operation during the period of extended operation. Holders of renewed licenses must retain in an auditable and retrievable form, for the term of the renewed operating license, all information and documentation required to document compliance with 10 CFR part 54. The NRC needs access to this information for continuing effective regulatory oversight.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: May 14, 2021.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2021–10548 Filed 5–18–21; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2021–54]

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:* May 21, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. Docket No(s).: CP2021–54; Filing Title: USPS Notice of Amendment to Priority Mail & First-Class Package Service Contract 184, Filed Under Seal; Filing Acceptance Date: May 13, 2021; Filing Authority: 39 CFR 3035.105; Public Representative: Kenneth R. Moeller; Comments Due: May 21, 2021.

[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).

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–10530 Filed 5–18–21; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* May 19, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 7, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 193 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–89, CP2021–92.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–10481 Filed 5–18–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* May 19, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 12, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 699 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–90, CP2021–93.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–10480 Filed 5–18–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* May 19, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 5, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 697 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–87, CP2021–90.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–10482 Filed 5–18–21; 8:45 a.m.]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* May 19, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 6, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 698 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–88, CP2021–91.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–10485 Filed 5–18–21; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91886; File No. SR–CboeEDGX–2021–026]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule

May 13, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 3, 2021, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (''EDGX Equities'') to (1) modify the criteria of certain Non-Displayed Add Volume Tiers, (2) modify and eliminate certain Retail Volume Tiers, and (3) reduce the rate for internalization for Members meeting a certain volume threshold. The Exchange proposes to implement the proposed change to its Fee Schedule on May 3, 2021.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,[3] no single registered equities exchange has more than 15% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

[3] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (April 26, 2021), available at *https://markets.cboe.com/us/equities/market_statistics/.*

Non-Displayed Add Volume Tiers

Pursuant to footnote 1 of the Fee Schedule, the Exchange offers Non-Displayed Add Volume Tiers that provide an enhanced rebate on Members' orders yielding fee codes ''DM'',[4] ''HA'',[5] ''MM'',[6] and ''RP'' [7] where a Member reaches certain required volume-based criteria offered in each tier. Specifically, the criteria for Non-Displayed Add Volume Tiers 1 through 3 are as follows:

- Tier 1 provides an enhanced rebated of $0.0015 per share on qualifying orders (*i.e.,* orders yielding fee code DM, HA, MM or RP) where a Member has an ADAV [8] greater than or equal to 0.01% of TCV [9] for Non-Displayed orders that yield fee codes DM, HA, ''HI'',[10] MM or RP.
- Tier 2 provides an enhanced rebated of $0.0022 per share on qualifying orders (*i.e.,* orders yielding fee code DM, HA, MM or RP) where a Member has an ADAV greater than or equal to 0.05% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP.
- Tier 3 provides an enhanced rebated of $0.0025 per share on qualifying orders (*i.e.,* orders yielding fee code DM, HA, MM or RP) where a Member has an ADAV greater than or equal to 0.10% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP.

Now, the Exchange is proposing to increase the ADAV thresholds for Non-Displayed Add Volume Tiers 1 and 2

[4] ''DM'' is appended to orders that add liquidity using MidPoint Discretionary order within discretionary range.

[5] ''HA'' is appended to non-displayed orders that add liquidity.

[6] ''MM'' is appended to non-displayed orders that add liquidity using Mid-Point Peg.

[7] ''RP'' is appended to non-displayed orders that add liquidity using Supplemental Peg.

[8] ''ADAV'' means average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

[9] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[10] ''HI'' is appended to non-displayed orders that receive price improvement and add liquidity.

and add alternate criteria for Tiers 1 through 3. Specifically, the proposed criteria for Non-Displayed Add Volume Tiers 1 through 3 are as follows:

• Tier 1 would provide an enhanced rebated of $0.0015 per share on qualifying orders (*i.e.,* orders yielding fee code DM, HA, MM or RP) where a Member has an ADAV greater than or equal to 0.05% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP; or a Member has an ADAV greater than or equal to 4,000,000 for Non-Displayed orders that yield fee codes DM, HA, HI, MM, or RP.

• Tier 2 would provide an enhanced rebated of $0.0022 per share on qualifying orders (*i.e.,* orders yielding fee code DM, HA, MM or RP) where a Member has an ADAV greater than or equal to 0.08% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP; or a Member has an ADAV greater than or equal to 7,000,000 for Non-Displayed orders that yield fee codes DM, HA, HI, MM, or RP.

• Tier 3 would provide an enhanced rebated of $0.0025 per share on qualifying orders (*i.e.,* orders yielding fee code DM, HA, MM or RP) where a Member has an ADAV greater than or equal to 0.10% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP; or a Member has an ADAV greater than or equal to 9,000,000 for Non-Displayed orders that yield fee codes DM, HA, HI, MM, or RP.

The Exchange notes the Non-Displayed Add Volume Tiers, as modified, continue to be available to all Members and provide Members an opportunity to receive an enhanced rebate, albeit using more stringent criteria. Moreover, the proposed changes are designed to encourage Members to increase non-displayed liquidity on the Exchange, which further contributes to a deeper, more liquid market and provides even more execution opportunities for active market participants at improved prices.

Retail Volume Tiers

Pursuant to footnote 3 of the Fee Schedule, the Exchange currently offers Retail Volume Tiers which provide Retail Member Organizations (''RMOs'') [11] an opportunity to receive an enhanced rebate from the standard rebate for Retail Orders [12] that add liquidity (*i.e.,* yielding fee code ''ZA'' [13]). Currently, the Retail Volume Tiers offer four levels of criteria difficulty and incentive opportunities in which RMOs may qualify for enhanced rebates for Retail Orders. The tier structure is designed to encourage RMOs to increase their order flow in order to receive an enhanced rebate on their liquidity adding orders, and the Exchange now proposes to amend existing Retail Volume Tier 2. The current Retail Volume Tier 2 provides an enhanced rebate of $0.0036 per share to Members that add a Retail Order ADV [14] (*i.e.,* yielding fee code ZA) equal to or greater than 0.60% of the TCV. Now, the Exchange proposes to increase the rebate to $0.0037 and lessen the Retail Order ADV threshold to 0.45%. Thus, the proposed Retail Volume Tier 2 would provide an enhanced rebate of $0.0037 per share to Members that add a Retail Order ADV (*i.e.,* yielding fee code ZA) equal to or greater than 0.45% of the TCV.

The Exchange also proposes to eliminate Retail Volume Tier 4 as the Exchange no longer wishes to, nor is it required to, maintain such a tier. Further, the Exchange would rather redirect resources to proposed Retail Volume Tier 2, which is intended to incentivize increased order flow.

Internalization Rate

The Exchange proposes to amend footnote 7, which provides a reduced fee for internalization (*i.e.,* orders yielding fee codes ''EA'' [15] or ''ER'' [16]). An internalized trade is a trade where the two orders inadvertently match against each other and share the same Market Participant Identifier (''MPID''). Internalized trades (*i.e.,* orders yielding fee codes EA or ER) are charged a standard fee of $0.00050 in securities priced at or above $1.00 and 0.15% of the dollar value in securities priced below $1.00. Currently, footnote 7 provides a reduced fee of $0.0001 per share per side for orders yielding fee code EA or ER to Members that add an ADV of at least 10,000,000 shares. Now, the Exchange proposes to eliminate the fee for internalized trades meeting the criteria provided under footnote 7. Specifically, as proposed, footnote 7 would provide that if a Member adds an ADV of at least 10,000,000 shares, then the Member's rate for internalization (fee codes EA or ER) decreases to Free per share per side, for securities priced at, above, or below $1.00. The Exchange believes the proposal is reasonable as it is designed to incentivize Members (and their customers) to send orders to the Exchange that may otherwise be internalized off exchange, which further contributes to a deeper, more liquid market and provide even more execution opportunities for active market participants at improved prices. This overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality, for all investors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[17] in general, and furthers the objectives of Section 6(b)(4) and 6(b)(5),[18] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members, issuers and other persons using its facilities.

The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. The Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges, including the Exchange, and are reasonable, equitable and non-discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered pricing structures, including schedules of rebates and fees

[11] A ''Retail Member Organization'' or ''RMO'' is a Member (or a division thereof) that has been approved by the Exchange under this Rule to submit Retail Orders. See EDGX Rule 11.21(a)(1).

[12] A ''Retail Order'' is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See EDGX Rule 11.21(a)(2).

[13] Orders yielding fee code ''ZA'' are orders routed to a non-exchange destination using the ROUZ routing strategy.

[14] ''ADV'' means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

[15] Orders yielding fee code ''EA'' are internalization orders that add displayed liquidity.

[16] Orders yielding fee code ''ER'' are internalization orders that remove displayed liquidity.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4) and (5).

that apply based upon members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

The Exchange believes the proposed Non-Displayed Add Volume Tiers are reasonable because each tier continues to be available to all Members and provide Members an opportunity to receive an enhanced rebate, even as modified. Additionally, as noted above, the Exchange operates in a highly competitive market. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several maker-taker exchanges. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including the pricing of comparable tiers.

The Exchange also believes that the current enhanced rebates under Non-Displayed Add Volume Tiers 1 through 3 continue to be commensurate with the proposed criteria. That is, the enhanced rebates reasonably reflect the difficulty in achieving the corresponding criteria as amended. Also, the Exchange's affiliated equities exchange, Cboe BZX Exchange, Inc. (''BZX''), currently has Non-Displayed Volume Tiers in place, which offer similar enhanced rebates and corresponding criteria.[19]

Overall, the Exchange believes that the proposed changes to the Non-Displayed Add Volume Tiers, each based on a Member's liquidity adding orders, will benefit all market participants by incentivizing continuous liquidity and, thus, deeper more liquid markets as well as increased execution opportunities. Particularly, the proposed changes to the Non-Displayed Add Volume Tiers are designed to incentivize non-displayed liquidity, which further contributes to a deeper, more liquid market and provide even more execution opportunities for active market participants at improved prices. This overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality, for all investors.

The Exchange also believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members are eligible for Non-Displayed Add Volume Tiers and would have the opportunity to meet the tiers' criteria and would receive the applicable rebate if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying for the proposed tiers. While the Exchange has no way of predicting with certainty how the proposed tier will impact Member activity, the Exchange anticipates that approximately 2 Members will be able to satisfy Non-Displayed Tier 1, 2 Members will be able to satisfy Non-Displayed Tier 2, and 1 Member will be able to satisfy Non-Displayed Tier 3. The Exchange also notes that proposed tiers will not adversely impact any Member's ability to qualify for other reduced fee or enhanced rebate tiers. Should a Member not meet the proposed criteria under any of the proposed tiers, the Member will merely not receive that corresponding enhanced rebate.

The Exchange believes the proposal to amend Retail Volume Tier 2 is reasonable because the tier, as modified continues to be available to all RMOs and provide RMOs an opportunity to receive an enhanced rebate using less stringent criteria. The Exchange also believes that the proposed enhanced rebate under Retail Volume Tier 2 is reasonable as it's in line with existing rebates under the Retail Volume Tiers and is commensurate with the proposed amended criteria. That is, the rebate reasonably reflects the difficulty in achieving the corresponding criteria as amended.

The Exchange believes that the proposal relating to the Retail Volume Tier 2 also represents an equitable allocation of rebates and is not unfairly discriminatory because all RMOs will continue to be eligible for the Retail Volume Tier. The proposed changes are designed as an incentive to any and all RMOs interested in meeting the tier criteria, as amended, to submit additional adding and/or removing, or Retail, order flow to the Exchange. The Exchange notes that greater add volume order flow provides for deeper, more liquid markets and execution opportunities, and greater remove volume order flow increases transactions on the Exchange, which incentivizes liquidity providers to submit additional liquidity and execution opportunities, thus, providing an overall increase in price discovery and transparency on the Exchange. Also, an increase in Retail Order flow, which orders are generally submitted in smaller sizes, tends to attract Market Makers, as smaller size orders are easier to hedge. Increased Market Maker activity facilitates tighter spreads, signaling an additional corresponding increase in order flow from other market participants, which contributes towards a robust, well-balanced market ecosystem. Increased overall order flow benefits all investors by deepening the Exchange's liquidity pool, potentially providing even greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange also notes all RMOs will continue to have the opportunity to submit the requisite order flow and will receive the applicable enhanced rebate if the tier criteria is met. The Exchange additionally notes that while the Retail Volume Tiers are applicable only to RMOs, the Exchange does not believe this application is discriminatory as the Exchange offers similar rebates to non-RMO order flow.[20]

Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any RMOs qualifying for the proposed amended tier. The Exchange notes that most recently, no Member has satisfied Retail Volume Tier 2. While the Exchange has no way of predicting with certainty how the proposed tier will impact Member activity, the Exchange anticipates that at least three Members will be able to satisfy Retail Volume Tier 2 (as amended). The Exchange also notes that the proposed amended tier will not adversely impact any RMO's ability to qualify for other rebate tiers. Rather, should an RMO not meet the criteria for Retail Volume Tier 2, as amended, the RMO will merely not receive the corresponding proposed enhanced rebate. Furthermore, the rebates under each Retail Volume Tiers would uniformly apply to all RMOs that meet the required criteria.

The Exchange also believes the proposed rule change to remove Retail Volume Tier 4 is reasonable because the Exchange no longer wishes to, nor is it required to, maintain such a tier.

[19] *See e.g.,* Cboe BZX Equities Fee Schedule, Footnote 1, which provides various Non-Displayed Add Volume Tiers.

[20] Such as the other Add/Remove Volume Tiers under Footnote 1 of the EDGX Fees Schedule which provide opportunities to all Members to submit the requisite order flow to receive an enhanced rebate.

Further, the Exchange would rather redirect resources to proposed Retail Volume Tier 2, which is intended to incentivize increased order flow. The Exchange believes that the proposed elimination of Retail Volume Tier 4 is equitable and not unfairly discriminatory as it applies equally to all Members. Additionally, as noted above, the Exchange operates in a highly competitive market. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several maker-taker exchanges. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including the pricing of comparable tiers.

The Exchange believes the proposal to eliminate the fee for internalized trades meeting the required volume threshold is reasonable and equitable because the incentive would be available to all Members and Members would not be subject to any fee for such transactions. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying for the eliminated fee. While the Exchange has no way of predicting with certainty how the proposed change will impact Member activity, in the most recent month 10 Members satisfied the internalization volume threshold and the Exchange anticipates that approximately 10 Members will continue to be able to satisfy the internalization volume threshold. The Exchange also notes that proposal to eliminate the fee will not adversely impact any Member's ability to qualify for other reduced fees or enhanced rebate tiers. Should a Member not meet the proposed criteria, the Member will merely not receive the reduced fee.

Additionally, as noted above, the Exchange operates in a highly competitive market. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. Furthermore, competing pricing schedules are presently comparable to those that the Exchange provides, including the pricing of internalized trades.[21] The Exchange believes the proposal is reasonable as it is designed to incentivize Members (and their customers) to send orders to the Exchange that may otherwise be internalized off exchange, which further contributes to a deeper, more liquid market and provide even more execution opportunities for active market participants at improved prices. This overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality, for all investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.''

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed changes to the Non-Displayed Add Volume Tiers applies to all Members equally in that all Members are eligible for these tiers, have a reasonable opportunity to meet the tiers' criteria and will receive the enhanced rebates if such criteria is met. Similarly, the proposed changes to the Retail Volume Tiers apply to all RMOs equally in that all RMOs are eligible for those tiers, have a reasonable opportunity to meet the tiers' criteria and will receive the enhanced rebates if such criteria are met. The proposed change to the internalization rate under footnote 7 also applies to all Members equally in that all Members are eligible for the reduced fee, have a reasonable opportunity to meet the volume thresholds, and will receive the eliminated fee if such criteria is met.

Additionally, the proposed tiers and eliminated fees are designed to attract additional order flow to the Exchange. The Exchange believes that the updated criteria would incentivize market participants to direct liquidity adding and/or removing order flow to the Exchange, bringing with it additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 15% of the market share.[22] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [23] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes

[21] *See* the Investors Exchange LLC (''IEX'') Fee Schedule, Fee Code Combinations and Associated Fees: ''MIS'', ''MLS'', and ''TIS''.

[22] *Supra* note 3.

[23] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[24] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2021–026 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2021–026. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2021–026, and should be submitted on or before June 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10496 Filed 5–18–21; 8:45 am]

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[24] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91895; File No. SR–NYSEArca–2021–39]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Shares of the Putnam Focused Large Cap Growth ETF; Putnam Focused Large Cap Value ETF; Putnam Sustainable Future ETF; and Putnam Sustainable Leaders ETF

May 13, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 11, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Rule 8.601–E: Putnam Focused Large Cap Growth ETF; Putnam Focused Large Cap Value ETF; Putnam Sustainable Future ETF; and Putnam Sustainable Leaders ETF. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has adopted NYSE Arca Rule 8.601–E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of Active Proxy Portfolio Shares, which are securities issued by an actively managed open-end investment management company.[4] Commentary .01 to Rule 8.601–E requires the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Active Proxy Portfolio Shares on the Exchange. Therefore, the Exchange is submitting this proposal in order to list and trade shares (''Shares'') as Active Proxy Portfolio Shares of the Putnam Focused Large Cap Growth ETF, Putnam Focused Large Cap Value ETF, Putnam Sustainable Future ETF, and Putnam Sustainable Leaders ETF (each, a ''Fund'' and, together, the ''Funds'') under Rule 8.601–E.

Key Features of Active Proxy Portfolio Shares

While funds issuing Active Proxy Portfolio Shares will be actively managed and, to that extent, will be similar to Managed Fund Shares, Active Proxy Portfolio Shares differ from Managed Fund Shares in the following important respects. First, in contrast to Managed Fund Shares, which are actively-managed funds listed and traded under NYSE Arca Rule 8.600–E[5] and for which a ''Disclosed Portfolio'' is required to be disseminated at least once daily,[6] the portfolio for each series of Active Proxy Portfolio Shares will be publicly disclosed within at least 60 days following the end of every fiscal quarter in accordance with normal disclosure requirements otherwise applicable to open-end management investment companies registered under the Investment Company Act of 1940 (the ''1940 Act'').[7] The composition of the portfolio of each series of Active Proxy Portfolio Shares would not be available at commencement of Exchange listing and trading. Second, in connection with the creation and redemption of Active Proxy Portfolio Shares, such creation or redemption may be exchanged for a Proxy Portfolio and/or cash with a value equal to the next-determined NAV. A series of Active Proxy Portfolio Shares will disclose the Proxy Portfolio on a daily basis, which, as described above, is designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares, instead of the actual holdings of the Investment Company, as provided by a series of Managed Fund Shares.

The Commission has previously approved listing and trading on the Exchange of series of Active Proxy Portfolio Shares under NYSE Arca Rule 8.601–E.[8] Each Fund is a series of Putnam ETF Trust (the ''Trust''), a Delaware statutory trust.[9] The

[4] *See* Securities Exchange Act Release No. 89185 (June 29, 2020), 85 FR 40328 (July 6, 2020) (SR–NYSEArca-2019–95). Rule 8.601–E(c)(1) provides that ''[t]he term ''Active Proxy Portfolio Share'' means a security that (a) is issued by a investment company registered under the Investment Company Act of 1940 (''Investment Company'') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified minimum number of shares, or multiples thereof, in return for a deposit by the purchaser of the Proxy Portfolio and/or cash with a value equal to the next determined net asset value (''NAV''); (c) when aggregated in the same specified minimum number of Active Proxy Portfolio Shares, or multiples thereof, may be redeemed at a holder's request in return for the Proxy Portfolio and/or cash to the holder by the issuer with a value equal to the next determined NAV; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.'' Rule 8.601–E(c)(2) provides that ''[t]he term ''Actual Portfolio'' means the identities and quantities of the securities and other assets held by the Investment Company that shall form the basis for the Investment Company's calculation of NAV at the end of the business day.'' Rule 8.601–E(c)(3) provides that ''[t]he term ''Proxy Portfolio'' means a specified portfolio of securities, other financial instruments and/or cash designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares as provided in the exemptive relief pursuant to the Investment Company Act of 1940 applicable to such series.''

[5] The Commission has previously approved listing and trading on the Exchange of a number of issues of Managed Fund Shares under NYSE Arca Rule 8.600–E. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving Exchange listing and trading of Cambria Global Tactical ETF); 63802 (January 31, 2011), 76 FR 6503 (February 4, 2011) (SR–NYSEArca–2010–118) (order approving Exchange listing and trading of the SiM Dynamic Allocation Diversified Income ETF and SiM Dynamic Allocation Growth Income ETF). The Commission also has approved a proposed rule change relating to generic listing standards for Managed Fund Shares. *See* Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016 (SR–NYSEArca–2015–110) (amending NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

[6] NYSE Arca Rule 8.600–E(c)(2) defines the term ''Disclosed Portfolio'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. NYSE Arca Rule 8.600–E(d)(2)(B)(i) requires that the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

[7] A mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N–CSR under the 1940 Act. Information reported on Form N–PORT for the third month of a fund's fiscal quarter will be made publicly available 60 days after the end of a fund's fiscal quarter. Form N–PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information (''SAI''), its Shareholder Reports, its Form N–CSR, filed twice a year, and its Form N–CEN, filed annually. A fund's SAI and Shareholder Reports will be available free upon request from the Investment Company, and those documents and the Form N–PORT, Form N–CSR, and Form N–CEN may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.*

[8] *See* Securities Exchange Act Release Nos. 89185 (June 29, 2020), 85 FR 40328 (July 6, 2020) (SR–NYSEArca–2019–95) (Notice of Filing of Amendment No. 6 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 6, to Adopt NYSE Arca Rule 8.601–E to Permit the Listing and Trading of Active Proxy Portfolio Shares and To List and Trade Shares of the Natixis U.S. Equity Opportunities ETF Under Proposed NYSE Arca Rule 8.601–E) (''Natixis Order''); 89192 (June 30, 2020), 85 FR 40699 (July 7, 2020) (SR–NYSEArca–2019–96) (Notice of Filing of Amendment No. 5 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 5, to List and Trade Two Series of Active Proxy Portfolio Shares Issued by the American Century ETF Trust under NYSE Arca Rule 8.601–E) (''American Century Order''); 89191 (June 30, 2020), 85 FR 40358 (July 6, 2020) (SR–NYSEArca–2019–92) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, to List and Trade Four Series of Active Proxy Portfolio Shares Issued by T. Rowe Price Exchange-Traded Funds, Inc. under NYSE Arca Rule 8.601–E) (''T. Rowe Price Approval Order''); 89438 (July 31, 2020), 85 FR 47821 (August 6, 2020) (SR–NYSEArca–2020–51) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of Natixis Vaughan Nelson Select ETF and Natixis Vaughan Nelson MidCap ETF under NYSE Arca Rule 8.601–E). *See also,* Securities Exchange Act Release No. 88887 (May 15, 2020), 85 FR 30990 (May 21, 2020) (SR-CboeBZX–2019–107) (Notice of Filing of Amendment No. 5 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 5, to Adopt Rule 14.11(m), Tracking Fund Shares, and to List and Trade Shares of the Fidelity Blue Chip Value ETF, Fidelity Blue Chip Growth ETF, and Fidelity New Millennium ETF).

[9] The Trust is registered under the 1940 Act. On February 17, 2021, the Trust filed a registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) and under the 1940 Act relating to the Funds (File Nos. 333–2532223 and 811–23643 (the ''Registration Statement''). The Trust filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–15203), dated February 19, 2021 (''Application''). On May 10, 2021, the Commission issued an order (''Exemptive Order'') under the 1940 Act granting the exemptions requested in the Application (Investment Company Act Release No. 34266, May 10, 2021). Investments made by the Funds will comply with the conditions set forth in the Application and the Exemptive

Continued

investment adviser for the Funds will be Putnam Investment Management, LLC (''Adviser''). The sub-adviser to the Funds is Putnam Investments Limited (''Sub-Adviser''). State Street Bank and Trust Company will serve as the Funds' transfer agent, custodian, and will conduct certain administrative functions (the ''Transfer Agent'' or ''Custodian''). Foreside Fund Services, LLC, a registered broker dealer, will serve as the distributor (''Distributor'') of the Shares.

Commentary .04 to NYSE Arca Rule 8.601–E provides that, if the investment adviser to the Investment Company issuing Active Proxy Portfolio Shares is registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company's Actual Portfolio and/or Proxy Portfolio. Any person related to the investment adviser or Investment Company who makes decisions pertaining to the Investment Company's Actual Portfolio and/or Proxy Portfolio or has access to non-public information regarding the Investment Company's Actual Portfolio and/or Proxy Portfolio or changes thereto must be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the Actual Portfolio and/or Proxy Portfolio or changes thereto. Commentary .04 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Rule 5.2–E(j)(3); however, Commentary .04, in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer, reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds.[10] Commentary .04 is also similar to Commentary .06 to Rule 8.600–E related to Managed Fund Shares, except that Commentary .04 relates to establishment and maintenance of a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, applicable to an Investment Company's Actual Portfolio and/or Proxy Portfolio or changes thereto, and not just to the underlying portfolio, as is the case with Managed Fund Shares.

In addition, Commentary .05 to Rule 8.601–E provides that any person or entity, including a custodian, Reporting Authority, distributor, or administrator, who has access to non-public information regarding the Investment Company's Actual Portfolio or the Proxy Portfolio or changes thereto, must be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the applicable Investment Company Actual Portfolio or the Proxy Portfolio or changes thereto. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity will erect and maintain a ''fire wall'' between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company Actual Portfolio or Proxy Portfolio.

The Adviser and Sub-Adviser are not registered as broker-dealers but are affiliated with broker-dealers. The Adviser and Sub-Adviser have implemented and will maintain a ''fire wall'' with respect to such broker-dealer affiliates regarding access to information concerning the composition of and/or changes to a Fund's Actual Portfolio and/or Proxy Portfolio. In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is or becomes a registered broker-dealer or affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a Fund's Actual Portfolio and/or Proxy Portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding a Fund's Actual Portfolio and/or Proxy Portfolio or changes thereto. Any person related to the Adviser, the Sub-Adviser or a Fund who makes decisions pertaining to a Fund's Actual Portfolio or Proxy Portfolio or has access to non-public information regarding a Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto is subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding a Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto.

In addition, any person or entity, including any service provider for a Fund, who has access to non-public information regarding a Fund's Actual Portfolio or the Proxy Portfolio or changes thereto, will be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding a Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity has erected and will maintain a ''fire wall'' between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to a Fund's Actual Portfolio and/or Proxy Portfolio.

Description of the Funds

According to the Registration Statement, each ''Business Day'' [11] before commencement of the trading of Shares, each Fund will publish on its website a Tracking Basket'' [12] designed to closely track the daily performance of a Fund but is not the Fund's Actual Portfolio. Each Tracking Basket will be comprised of select recently disclosed portfolio holdings (''Strategy Components''), liquid ETFs that convey information about the types of instruments in which a Fund invests not otherwise fully represented by the Strategy Components (''Representative ETFs''),[13] and cash and cash

Order. The description of the operation of the Funds herein is based, in part, on the Registration Statement and the Application. The Exchange will not commence trading in Shares of the Funds until the Registration Statement is effective.

[10] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser, the Sub-Adviser and their related personnel will be subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violations, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[11] ''Business Day'' is defined to mean any day that the Exchange is open, including any day when the Funds satisfy redemption requests as required by Section 22(e) of the 1940 Act.

[12] The ''Tracking Basket'' is the Proxy Portfolio for purposes of Rule 8.601–E(c)(3).

[13] Representative ETFs will be selected for inclusion in a Proxy Portfolio such that, when aggregated with the other components, the Proxy

equivalents. Tracking Baskets will be constructed utilizing a proprietary optimization process to minimize daily deviations in return of the Tracking Basket relative to a Fund and will be used to facilitate the creation/redemption process and arbitrage. The Tracking Basket will be rebalanced on schedule with the public disclosure of a Fund's holdings, although a new Tracking Basket may be generated as frequently as daily. The Adviser will not make intra-day changes to the Tracking Basket except to correct errors in the published Tracking Basket.

In addition, on each Business Day before commencement of trading of Shares, each Fund will publish a ''Tracking Basket Weight Overlap'' on the website. The Tracking Basket Weight Overlap will represent the percentage weight overlap between the prior Business Day's Tracking Basket's holdings compared to the holdings of the Actual Portfolio that formed the basis for a Fund's calculation of NAV at the end of the prior Business Day. According to the Registration Statement, the ''Tracking Basket Weight Overlap'' is intended to provide investors with an understanding of the degree to which the Tracking Basket and a Fund's portfolio overlap and help investors evaluate the risk that the performance of the Tracking Basket may deviate from the performance of the portfolio holdings of a Fund.

The Tracking Basket will not include any asset that is ineligible to be in the Actual Portfolio of a Fund.

Putnam Focused Large Cap Growth ETF

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order, and the holdings will be consistent with all requirements in the Application and Exemptive Order.[14] Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Fund's investment objective is to seek capital appreciation. The Fund will invest mainly in common stocks of large U.S. companies, with a focus on growth stocks. Under normal circumstances, the Fund will invest at least 80% of the Fund's net assets in companies of a size similar to those in the Russell 1000 Growth Index.

Putnam Focused Large Cap Value ETF

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order, and the holdings will be consistent with all requirements in the Application and Exemptive Order.[15] Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Fund's investment objective is to seek capital growth and current income. The Fund will invest mainly in common stocks of U.S. companies, with a focus on value stocks that offer the potential for capital growth, current income, or both. Under normal circumstances, the Fund will invest at least 80% of the Fund's net assets in large-cap companies, which for purposes of this policy, are of a size similar to those in the Russell 1000 Value Index.

Putnam Sustainable Future ETF

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order, and the holdings will be consistent with all requirements in the Application and Exemptive Order.[16] Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Fund's investment objective is to seek long-term capital appreciation. The Fund will invest mainly in common stocks of U.S. companies of any size, with a focus on companies whose products and services provide solutions that directly contribute to sustainable social, environmental and economic development. Under normal circumstances, the Fund will invest at least 80% of the value of its net assets in securities that meet the Adviser's sustainability criteria. In applying these criteria, the Advisor will assign each company a proprietary environmental, social and/or corporate governance (''ESG'') rating ranging from 1 to 4 (1 indicating the highest (best) ESG rating and 4 indicating the lowest (worst) ESG rating). In order to meet the Adviser's sustainability criteria for purposes of this investment policy, a company must be rated 2 or 1 by the Adviser. This policy may be changed only after 60 days' notice to shareholders.

Putnam Sustainable Leaders ETF

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order, and the holdings will be consistent with all requirements in the Application and Exemptive Order.[17] Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Fund's investment objective is to seek long-term capital appreciation. The Fund will invest mainly in common stocks of U.S. companies of any size, with a focus on companies that exhibit a commitment to financially material sustainable business practices. Under normal circumstances, the Fund will invest at least 80% of the value of its net assets in securities that meet the Adviser's sustainability criteria. In applying these criteria, the Advisor will assign each company an ESG rating ranging from 1 to 4 (1 indicating the highest (best) ESG rating and 4 indicating the lowest (worst) ESG rating). In order to meet the Adviser's sustainability criteria for purposes of this investment policy, a company must be rated 2 or 1 by the Adviser. This policy may be changed only after 60 days' notice to shareholders.

Portfolio corresponds to a Fund's overall holdings exposure. Representative ETFs will constitute no more than 50% of a Proxy Portfolio's assets on each Business Day at the time that the Proxy Portfolio is published.

[14] Pursuant to the Application and Exemptive Order, the permissible investments for the Funds include only the following instruments: ETFs; exchange-traded notes (''ETNs''); exchange-traded common stocks; exchange-traded preferred stocks; exchange-traded American Depositary Receipts (''ADRs''); exchange-traded real estate investment trusts (''REITs''); exchange-traded commodity pools; exchange-traded metals trusts; exchange-traded currency trusts; common stocks listed on a foreign exchange that trade on such exchange synchronously with the Shares (''foreign common stocks'') in the Exchange's Core Trading Session (normally 9:30 a.m. to 4:00 p.m. Eastern time (''E.T.'')); exchange-traded futures that trade synchronously with a Fund's Shares as well as cash and cash equivalents. With the exception of foreign common stocks and cash and cash equivalents, all holdings of the Funds will be listed on a U.S. national securities exchange or a U.S. futures exchange. For purposes of this filing, cash equivalents are short-term U.S. Treasury securities, government money market funds, and repurchase agreements. The Funds will not hold short positions or invest in derivatives other than U.S. exchange-traded futures, will not borrow for investment purposes, and will not purchase any securities that are illiquid investments at the time of purchase.

[15] *See id.*

[16] *See id.*

[17] *See id.*

Investment Restrictions

The Shares of the Funds will conform to the initial and continued listing criteria under Rule 8.601–E. The Funds' holdings will be limited to and consistent with permissible holdings as described in the Application and Exemptive Order and all requirements in the Application and Exemptive Order.[18]

The Fund's investments, including derivatives, will be consistent with their investment objectives and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, the Funds' investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2X or –3X) of the Funds' primary broad-based securities benchmark index (as defined in Form N–1A).[19]

Purchases and Redemptions of Shares

According to the Registration Statement, the Trust will offer, issue and sell Shares of the Funds to investors only in specified minimum size ''Creation Units'' through the Distributor on a continuous basis at the NAV per Share next determined after an order in proper form is received. The NAV of a Fund is expected to be determined as of 4:00 p.m. E.T. on each Business Day. The Trust will sell and redeem Creation Units of the Funds only on a Business Day. A Creation Unit will generally consist of at least 25,000 Shares.

According to the Registration Statement, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis in exchange for the Strategy Components included in a Fund's Tracking Basket, together with an amount of cash corresponding to the value of the Representative ETFs and cash and cash equivalents that form the remainder of the Tracking Basket. Accordingly, except where the purchase or redemption will include cash under the circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified securities (''Deposit Securities''), and shareholders redeeming their Shares will receive an in-kind transfer of specified securities (''Fund Securities''). The names and quantities of the instruments that constitute the Deposit Securities and the Fund Securities for a Fund (collectively, the ''Creation Basket'') will be the same as a Fund's designated Tracking Basket, except to the extent that the Fund requires purchases and redemptions to be made entirely or in part on a cash basis, as described below.

The Funds will adopt and implement policies and procedures regarding the composition of its Creation Baskets. The policies and procedures will set forth detailed parameters for the construction and acceptance of baskets that are in the best interests of the Funds, including the process for any revisions to or deviations from, those parameters.

Creation Units of the Funds may be purchased and/or redeemed entirely for cash. When full or partial cash purchases of Creation Units are available or specified for the Funds, they will be effected in essentially the same manner as in-kind purchases thereof. The Funds may determine, upon receiving a purchase or redemption order from an Authorized Participant, to have the purchase or redemption, as applicable, be made entirely or in part in cash.[20]

If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

Each Business Day, before the open of trading on the Exchange (9:30 a.m. ET), the Funds will cause to be published through the National Securities Clearing Corporation (''NSCC'') the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any) for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The Tracking Basket will be published each Business Day regardless of whether a Fund decides to issue or redeem Creation Units entirely or in part on a cash basis.

All orders to purchase Creation Units must be placed with the Distributor by or through an Authorized Participant, which is a member or participant of a clearing agency registered with the Commission, which has a written agreement with the Funds or one of its service providers that allows the Authorized Participant to place orders for the purchase and redemption of Creation Units. Validly submitted orders to purchase or redeem Creation Units on each Business Day will be accepted until the end of the Core Trading Session (the ''Closing Time''), generally 4:00 p.m. E.T., on the Business Day that the order is placed (the ''Transmittal Date''). All Creation Unit orders must be received by the Distributor no later than the Closing Time in order to receive the NAV determined on the Transmittal Date. When the Exchange closes earlier than normal, the Funds may require orders for Creation Units to be placed earlier in the Business Day.

Availability of Information

The Funds' website (*www.putnam.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for each Fund that may be downloaded. The Funds' website will include on a daily basis, per Share for each Fund, the prior Business Day's NAV and the ''Closing Price'' or ''Bid/Ask Price,'' [21] and a calculation of the premium/discount of the Closing Price or Bid/Ask Price against such NAV.[22] The Adviser has represented that the Funds' website will also provide: (1) Any other information regarding premiums/discounts as may be required for other ETFs under Rule 6c–11 under the 1940 Act, as amended, and (2) any information regarding the bid/ask spread for a Fund as may be required for other ETFs under Rule 6c–11 under the 1940 Act, as amended. The website and information will be publicly available at no charge. The website also will disclose the information required under Rule 8.601–E(c)(3).[23]

[18] *See* note 14, *supra.*

[19] The Funds' broad-based securities benchmark index will be identified in a future amendment to its Registration Statement following the Funds' first full calendar year of performance.

[20] The Adviser represents that, to the extent the Trust effects the creation or redemption of Shares in cash on any given day, such transactions will be effected in the same manner for all Authorized Participants placing trades with the Funds on that day.

[21] The records relating to Bid/Ask Prices will be retained by a Fund or its service providers. The ''Bid/Ask Price'' is the midpoint of the highest bid and lowest offer based upon the National Best Bid and Offer as of the time of calculation of a Fund's NAV. The ''National Best Bid and Offer'' is the current national best bid and national best offer as disseminated by the Consolidated Quotation System or UTP Plan Securities Information Processor. The ''Closing Price'' of Shares is the official closing price of the Shares on the Exchange.

[22] The ''premium/discount'' refers to the premium or discount to NAV at the end of a trading day and will be calculated based on the last Bid/Ask Price or the Closing Price on a given trading day.

[23] *See* note 4, *supra.* Rule 8.601–E(c)(3) provides that the website for each series of Active Proxy Portfolio Shares shall disclose the information regarding the Proxy Portfolio as provided in the exemptive relief pursuant to the Investment Company Act of 1940 applicable to such series, including the following, to the extent applicable: (i) Ticker symbol; (ii) CUSIP or other identifier; (iii) Description of holding; (iv) Quantity of each security or other asset held; and (v) Percentage weighting of the holding in the Tracking Basket.

The Tracking Basket holdings (including the identity and quantity of investments in the Tracking Basket) will be publicly available on the Funds' website before the commencement of trading in Shares on each Business Day.

The website also will include information relating to the Tracking Basket Weight Overlap, as discussed above.

Typical mutual fund-style annual, semi-annual and quarterly disclosures contained in each Fund's Commission filings will be provided on the Funds' website on a current basis.[24] Thus, each Fund will publish the portfolio contents of its Actual Portfolio on a periodic basis within at least 60 days following the end of every fiscal quarter.

Investors can also obtain the Funds' prospectus, SAI, shareholder reports, Form N–CSR, Form N–PORT and Form N–CEN. Investors may access complete portfolio schedules for a Fund on Form N–CSR and Form N–PORT. The prospectus, SAI and shareholder reports will be available free upon request from each Fund, and those documents and the Form N–CSR, Form N–PORT and Form N–CEN may be viewed on-screen or downloaded from the Commission's website at *http://www.sec.gov.* The Exchange also notes that pursuant to the Application, the Funds must comply with Regulation Fair Disclosure, which prohibits selective disclosure of any material non-public information.

Information regarding the market price of Shares and trading volume in Shares, will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. 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 for the Shares and U.S. exchange-traded instruments (excluding futures contracts) will be available via the Consolidated Tape Association (''CTA'') high-speed line, from the exchanges on which such securities trade, or through major market data vendors or subscription services. Intraday price information for all exchange-traded instruments, which include all eligible instruments except cash and cash equivalents, will be available from the exchanges on which they trade, or through major market data vendors or subscription services. Intraday price information for cash equivalents is available through major market data vendors, subscription services and/or pricing services.

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 of a Fund.[25] Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.601–E(d)(2)(D), which sets forth circumstances under which Shares of a Fund will be halted.

Specifically, Rule 8.601–E(d)(2)(D) provides that the Exchange may consider all relevant factors in exercising its discretion to halt trading in a series of Active Proxy Portfolio Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the series of Active Proxy Portfolio Shares inadvisable. These may include: (a) The extent to which trading is not occurring in the securities and/or the financial instruments composing the Proxy Portfolio and/or Actual Portfolio; or (b) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

In addition, if the Exchange becomes aware that the NAV, Proxy Portfolio or Actual Portfolio with respect to a series of Active Proxy Portfolio Shares is not disseminated to all market participants at the same time, the Exchange shall halt trading in such series until such time as the NAV, Proxy Portfolio or Actual Portfolio is available to all market participants at the same time.

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. Shares will trade on the NYSE Arca Marketplace in all trading sessions in accordance with NYSE Arca Rule 7.34–E(a). As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.601–E. The Exchange has appropriate rules to facilitate trading in the Shares during all trading sessions.

A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange. In addition, pursuant to Rule 8.601–E(d)(1)(B), the Exchange, prior to commencement of trading in the Shares, will obtain a representation from the Trust that the NAV per Share will be calculated daily and that the NAV, Tracking Basket and the Actual Portfolio for the Funds will be made available to all market participants at the same time.

With respect to Active Proxy Portfolio Shares, all of the Exchange member obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with Exchange rules and federal securities laws, and the Exchange and the Financial Industry Regulatory Authority, Inc. (''FINRA'') will continue to monitor Exchange members for compliance with such requirements.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Exchange, as well as cross market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[26] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, or the Exchange or both will communicate as needed regarding trading in the Shares and underlying exchange-traded instruments with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, or the Exchange or both may obtain trading information regarding

[24] *See* note 7, *supra.*

[25] *See* NYSE Arca Rule 7.12–E.

[26] FINRA conducts 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.

trading such securities and exchange-traded instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[27]

The Adviser will make available daily to FINRA and the Exchange the Actual Portfolio of a Fund, upon request, in order to facilitate the performance of the surveillances referred to above.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Commentary .03 to NYSE Arca Rule 8.601–E provides that the Exchange will implement and maintain written surveillance procedures for Active Proxy Portfolio Shares. As part of these surveillance procedures, the Investment Company's investment adviser will upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily Actual Portfolio holdings of each series of Active Proxy Portfolio Shares. The Exchange believes that the ability to access the information on an as needed basis will provide it with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Active Proxy Portfolio Shares on the Exchange, including the ability to monitor compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of Active Proxy Portfolio Shares.

The Exchange will utilize its existing procedures to monitor the Funds' compliance with the requirements of Rule 8.601–E. For example, the Exchange will continue to use intraday alerts that will notify Exchange personnel of trading activity throughout the day that may indicate that unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market. The Exchange will require from the Trust, upon initial listing and periodically thereafter, a representation that it is in compliance with Rule 8.601–E. The Exchange notes that Commentary .01 to Rule 8.601–E requires the issuer of shares to notify the Exchange of any failure to comply with the continued listing requirements of Rule 8.601–E. In addition, the Exchange will require the Trust to represent that it will notify the Exchange of any failure to comply with the terms of applicable exemptive and no-action relief. As part of its surveillance procedures, the Exchange will rely on the foregoing procedures to become aware of any non-compliance with the requirements of Rule 8.601–E.

With respect to the Funds, all statements and representations made in this filing regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange. The Exchange will obtain a representation from the Trust, prior to commencement of trading in the Shares of the Funds, that it will advise the Exchange of any failure by the Funds to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[28] in general, and furthers the objectives of Section 6(b)(5) of the Act,[29] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[30]

With respect to the proposed listing and trading of Shares of the Funds, 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 and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.601–E. One hundred percent of the value of each Fund's Actual Portfolio (except for cash and cash equivalents) at the time of purchase will be listed on U.S. or foreign securities exchanges (or, in the limited case of futures contracts, U.S. futures exchanges). The listing and trading of such U.S. securities is subject to rules of the exchanges on which they are listed and traded, as approved by the Commission.

Each Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order and the holdings will be consistent with all requirements in the Application and Exemptive Order.[31]

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and underlying exchange-traded instruments 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 such securities and exchange-traded instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Any foreign common stocks held by a Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The daily dissemination of the identity and quantity of Tracking Basket component investments, together with the right of Authorized Participants to create and redeem each day at the NAV, will be sufficient for market participants to value and trade Shares in a manner that will not lead to significant deviations between the Bid/Ask Price and NAV of the Shares.

The Funds' investments, including derivatives, will be consistent with its investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, a Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2× or –3×) of a Fund's primary broad-based securities benchmark index (as defined in Form N–1A).

With respect to the Funds, the proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the Trust, prior to commencement of trading in the Shares, that the NAV per Share of the Funds will be calculated daily and that the NAV, Tracking Basket and Actual Portfolio for each Fund will be made

[27] For a list of the current members of ISG, *see www.isgportal.org.*

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(5).

[30] The Exchange represents that, for initial and continued listing, the Funds will be in compliance with Rule 10A–3 under the Act, as provided by NYSE Arca Rule 5.3–E.

[31] *See* note 9, *supra.*

available to all market participants at the same time. Investors can also obtain the Funds' SAI, shareholder reports, and its Form N–CSR, Form N–PORT and Form N–CEN. Each Fund's SAI and shareholder reports will be available free upon request from a Fund, and those documents and the Form N–CSR, Form N–PORT and Form N–CEN may be viewed on-screen or downloaded from the Commission's website.

Commentary .03 to NYSE Arca Rule 8.601–E provides that the Exchange will implement and maintain written surveillance procedures for Active Proxy Portfolio Shares. As part of these surveillance procedures, the Investment Company's investment adviser will, upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily portfolio holdings of each series of Active Proxy Portfolio Shares. The Exchange believes that the ability to access the information on an as needed basis will provide it with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Active Proxy Portfolio Shares on the Exchange, including the ability to monitor compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of Active Proxy Portfolio Shares. With respect to the Funds, the Adviser will make available daily to FINRA and the Exchange the portfolio holdings of the Funds upon request in order to facilitate the performance of the surveillances referred to above.

The Exchange will utilize its existing procedures to monitor compliance with the requirements of Rule 8.601–E. For example, the Exchange will continue to use intraday alerts that will notify Exchange personnel of trading activity throughout the day that may indicate that unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market. The Exchange will require from the Trust, upon initial listing and periodically thereafter, a representation that it is in compliance with Rule 8.601–E. The Exchange notes that Commentary .01 to Rule 8.601–E requires the issuer of shares to notify the Exchange of any failure to comply with the continued listing requirements of Rule 8.601–E. In addition, the Exchange will require the Trust to represent that it will notify the Exchange of any failure to comply with the terms of applicable exemptive and no-action relief. The Exchange will rely on the foregoing procedures to become aware of any non-compliance with the requirements of Rule 8.601–E.

In addition, with respect to the Funds, a large amount of information will be publicly available regarding the Funds and the Shares, thereby promoting market transparency.

Quotation and last sale information for the Shares and U.S. exchange-traded instruments (excluding futures contracts) will be available via the CTA high-speed line, from the exchanges on which such securities trade, or through major market data vendors or subscription services. Intraday price information for all exchange-traded instruments, which include all eligible instruments except cash and cash equivalents, will be available from the exchanges on which they trade, or through major market data vendors or subscription services. Intraday price information for cash equivalents is available through major market data vendors, subscription services and/or pricing services.

The website for the Funds will include a form of the prospectus that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis. Trading in Shares of the Funds will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.601–E(d)(2)(D), which sets forth circumstances under which Shares of the Funds may be halted. In addition, as noted above, investors will have ready access to the Proxy Portfolio, and quotation and last sale information for the Shares. The Tracking Basket holdings for each Fund (including the identity and quantity of investments in the Tracking Basket) will be publicly available on the Funds' website before the commencement of trading in Shares on each Business Day. The Shares will conform to the initial and continued listing criteria under Rule 8.601–E.

Each Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order and the holdings will be consistent with all requirements in the Application and Exemptive Order.[32] Any foreign common stocks held by the Funds will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The components of each Fund's Actual Portfolio will (a) be listed on an exchange and the primary trading session of such exchange will trade synchronously with the Exchange's Core Trading Session, as defined in Rule 7.34–E(a); (b) with respect to exchange-traded futures, be listed on a U.S. futures exchange; or (c) consist of cash and cash equivalents.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange will obtain a representation from the Trust, prior to commencement of trading in the Shares of the Funds, that it will advise the Exchange of any failure by the Funds to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

As noted above, with respect to the Funds, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, with respect to each Fund, investors will have ready access to information regarding the Tracking Basket and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change would permit listing and trading of another type of actively-managed ETF that has characteristics different from existing actively-managed and index ETFs and would introduce additional competition among various ETF products to the benefit of investors.

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.

[32] *See* note 9, *supra.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [33] and Rule 19b–4(f)(6) thereunder.[34]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [35] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the Commission has previously approved proposed rule changes to permit listing and trading on the Exchange of Active Proxy Portfolio Shares similar to the Funds.[36] The Exchange also states that the Commission has previously issued a notice of filing and immediate effectiveness for a proposed rule change relating to the proposed listing on a national securities exchange of other issues of Active Proxy Portfolio Shares similar to the Funds.[37] For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[38]

[33] 15 U.S.C. 78s(b)(3)(A).

[34] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[35] 17 CFR 240.19b–4(f)(6)(iii).

[36] *See supra* note 8.

[37] *See* Securities Exchange Act Release No. 90686 (December 16, 2020), 85 FR 83657 (December 22, 2020) (SR–CboeBZX–2020–090) (Notice of Filing and Immediate Effectiveness of a Proposed Rule to List and Trade Shares of the Invesco Real Assets ESG ETF and the Invesco US Large Cap Core ESG ETF, Each a Series of the Invesco Actively Managed Exchange-Traded Fund Trust, under Rule 14.11(m) (Tracking Fund Shares)).

[38] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2021–39 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 R–NYSEArca–2021–39. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*.) Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2021–39 and should be submitted on or before June 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10499 Filed 5–18–21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91885; File No. SR–NASDAQ–2021–038]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation Date of Its Nasdaq Opening Cross Enhancements to the End of Q2 2021

May 13, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 3, 2021, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the implementation date of its Nasdaq Opening Cross enhancements to the end of Q2 2021.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[39] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is filing this proposal to extend the implementation date of its Nasdaq Opening Cross enhancements to the end of Q2 2021.

Nasdaq proposed to enhance its Opening Cross by (i) disseminating abbreviated order imbalance information prior to the dissemination of the Order Imbalance Indicator, (ii) amending certain cutoff times for on-open orders entered for participation in the Nasdaq Opening Cross and (iii) extending the time period for accepting certain Limit On Open Orders. These changes were filed by Nasdaq on February 10, 2021 [sic], and published in the **Federal Register** on February 17, 2021.[3] The Commission approved these changes on April 2, 2021.[4]

Nasdaq initially proposed that these changes become operative on April 26, 2021. Due to additional weekend testing in advance of the date of launch, Nasdaq has decided to delay the implementation of this new functionality until the end of Q2 2021. The Exchange will announce the new implementation date in an Equity Trader Alert at least ten days in advance of implementing the changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The purpose of this proposal is to inform the SEC and market participants of the new implementation date for the Nasdaq Opening Cross enhancements. These enhancements were proposed in a rule filing that was submitted to the SEC, and this proposal does not make any substantive changes to that filing. Nasdaq is delaying the implementation date to allow for additional weekend testing prior to implementation.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As explained above, the purpose of this proposal is to inform the SEC and market participants of the new implementation date for the enhancements to the Opening Cross, and the Exchange does not expect the date change to place any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. Waiver of the operative delay would allow the Exchange to immediately extend the implementation date for the changes to the Nasdaq Opening Cross to allow for additional weekend testing prior to implementation. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2021–038 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–NASDAQ–2021–038. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

[3] *See* Securities Exchange Act Release No. 91096 (February 10, 2021), 86 FR 9972 (February 17, 2021) (NASDAQ–2021–004) (''Proposal'').

[4] *See* Securities Exchange Act Release No. 91461 (April 2, 2021), 86 FR 18330 (April 8, 2021) (''Approval Order'').

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2021–038, and should be submitted on or before June 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10495 Filed 5–18–21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91894; File No. SR–ICC–2021–007]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC's Treasury Operations Policies and Procedures

May 13, 2021.

I. Introduction

On March 29, 2021, ICE Clear Credit LLC (''ICC'') 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 revise the ICC Treasury Operations Policies and Procedures (the ''Treasury Policy''). The proposed rule change was published for comment in the **Federal Register** on April 13, 2021.[3] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICC is proposing amendments to its Treasury Policy to make certain clarifications and updates with respect to governance arrangements and collateral asset haircuts, as well as minor clean-up changes. The proposed amendments are summarized below.[4]

ICC proposes to amend the ''Revision History'' section of the Treasury Policy. The proposed changes would remove an incorrect statement that the document's revision history is limited to the last three years. The proposed changes would also memorialize ICC's review and approval process of the Treasury Policy document, which consists of review by the ICC Risk Committee and review and approval by the ICC Board of Managers (the ''Board'') at least annually. Additionally, ICC would update the revision history table to include the most recent changes to the document.

ICC also proposes updates and clarification changes to the ''Collateral Assets Risk Management Framework'' appendix to the Treasury Policy (''Appendix 6''). Under the Treasury Policy, ICC accounts for the risk associated with fluctuations in the value of collateral assets by discounting, or applying ''haircuts'' to, such assets based on the risk measures and risk factors set forth in Appendix 6. The ICC Risk Department (the ''Risk Department'') calculates such haircuts for various collateral assets as described in Appendix 6 on an ongoing basis. ICC proposes to change Appendix 6 to update the measure of daily changes for collateral assets such as sovereign debt. Specifically, the proposed changes would amend and remove certain language that differentiates between yield rates greater than and less than or equal to one basis point in respect of sovereign debt collateral haircuts. ICC represents that such amendments do not represent a change to the methodology and would provide a more generalized and consistent collateral risk management framework for sovereign debt.[5] ICC proposes additional clarifications, including with respect to time series used for determining sovereign debt collateral haircuts and a formula regarding a risk-factor specific haircut. ICC also proposes a grammatical update to change a reference to ''haircuts'' from plural to singular.

ICC further proposes additional detail on the process of reviewing and updating collateral asset haircuts. Appendix 6 currently states that such haircuts are reviewed monthly. ICC proposes to clarify that the Risk Department will establish haircuts for the respective collateral asset types within measured intervals, and review them at least monthly to determine the need for updates. ICC also proposes to specify that the Risk Department may use discretion to update collateral asset haircuts during periods of extreme market stress, and specifically during periods when collateral assets appreciate in response to central banks' policy implementations, as a temporary means to reduce procyclical impacts.

III. Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[6] and Rules 17Ad–22(e)(2)(i) and (v), (e)(3)(i), and (e)(5) thereunder.[7]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.[8]

As described above, the proposed rule change would update and clarify the revision history of the Treasury Policy document and memorialize the governance arrangements for its review and approval. The Commission believes that these proposed changes should help ICC maintain a complete and transparent history of changes to the Treasury Policy and ensure that the Treasury Policy is reviewed and approved at least annually to support ICC's ongoing treasury functions, including collateral asset risk

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC's Treasury Operations Policies and Procedures, Exchange Act Release No. 91489 (April 7, 2021), 86 FR 19311 (April 13, 2021) (SR–ICC–2021–007) (''Notice'').

[4] The following description of the proposed rule change is substantially excerpted from the Notice.

[5] *See* Notice, 86 FR at 19311.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 240.17Ad–22(e)(2)(i) and (v), (e)(3)(i), and (e)(5).

[8] 15 U.S.C. 78q–1(b)(3)(F).

management. The Commission believes these aspects of the proposed rule change should facilitate ICC's ability to maintain CDS clearing services that are supported by, and consistent with, clear and transparent governance arrangements that comply with internal Treasury policies and procedures, which should, in turn, help ICC continue to promote the prompt and accurate settlement of CDS transactions.

ICC would also update and clarify its collateral assets risk management framework in Appendix 6 of the Treasury Policy by changing certain risk measures for calculating collateral asset haircuts. Specifically, as described above, the proposed rule change would update the measure of daily changes for collateral assets such as sovereign debt, including with respect to time series used for sovereign debt collateral haircuts and a formula regarding a risk-factor specific haircut. ICC would also change a reference to ''haircuts'' from plural to singular. Further, ICC also proposes additional detail in Appendix 6 on the process and frequency of reviewing and updating collateral asset haircuts. ICC proposes to clarify that the Risk Department will establish haircuts for the respective collateral asset types within measured intervals, and review them at least monthly to determine the need for updates. ICC also proposes to specify that the Risk Department may use discretion to update collateral asset haircuts during periods of extreme market stress to reduce procyclicality.

Taken together, the proposed changes to Appendix 6 should enhance the accuracy of ICC's collateral asset haircuts and help ICC to ensure that, even in stressed market conditions, it will continue to collect sufficient collateral from its clearing participants and that such collateral could be liquidated in a timely manner to meet its financial obligations as a central counterparty while also limiting the likelihood of procyclical impacts from haircuts as issuer creditworthiness deteriorates and haircuts increase. Moreover, these proposed changes should enhance ICC's ability to manage the credit, liquidity, and market risks it faces from collateral posted by its participants. Accordingly, the Commission believes that ICC's proposed changes to Appendix 6 should help ICC to continue providing prompt and accurate settlement of CDS transactions and to enhance ICC's ability to safeguard securities and funds which are in its custody or control or for which it is responsible.

For these reasons, the Commission finds that the proposed rule change is consistent with the Section 17A(b)(3)(F) of the Act.[9]

B. Consistency With Rule 17Ad–22(e)(2)(i) and (v)

Rules 17Ad–22(e)(2)(i) and (v) require that ICC establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility.[10]

As noted above, the proposed rule change would enhance the governance arrangements for reviewing and approving the Treasury Policy document generally, including clear governance arrangements for reviewing and updating haircuts under the collateral asset risk management framework in Appendix 6. Specifically, the proposed rule change provides that the Treasury Policy document is subject to review by the Risk Committee and review and approval by the Board at least annually. Further, the proposed rule change would clarify and update the current statement in Appendix 6 that collateral asset haircuts are reviewed monthly, by specifying that the Risk Committee will establish haircuts for the respective collateral asset types within measured intervals, and review them at least monthly to determine the need for updates. The proposed rule change would also clarify that the Risk Committee may exercise discretion to review and update haircut values more frequently, if it deems necessary, and may make incremental, temporary adjustments to existing haircuts in response to specific market conditions. The Commission therefore believes that these aspects of the proposed rule change will maintain ICC's Treasury operations policies and procedures in a manner reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility.

For these reasons, the Commission finds that the proposed rule change is consistent with Rules 17Ad–22(e)(2)(i) and (v).[11]

C. Consistency With Rule 17Ad–22(e)(3)(i)

Rule 17Ad–22(e)(3)(i) requires, among other things, that ICC establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, maintain a sound risk management framework that identifies, measures, monitors, and manages the range of risks that it faces.[12]

As described above, ICC's proposed changes to its collateral assets risk framework in Appendix 6 would refine and update certain risk measures and risk factors for determining collateral asset haircuts that can be accepted from an ICC clearing participant. The proposed changes would also require the Risk Department to review and update haircut values at least monthly, or more frequently as it deems necessary, and to incrementally update such haircuts during periods of extreme market stress. The Commission believes that these updated collateral asset risk management procedures should allow ICC to continue to mitigate collateral price and liquidation risk through setting acceptable haircuts and providing governance guidelines for monitoring haircut values and managing any deviations or related issues, thereby continuing to maintain a sound risk management framework in this regard.

For these reasons, the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(e)(3)(i).[13]

D. Consistency With Rule 17Ad–22(e)(5)

Rule 17Ad–22(e)(5) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, limit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits if the covered clearing agency requires collateral to manage its or its participants' credit exposure; and require a review of the sufficiency of its collateral haircuts and concentration limits to be performed not less than annually.[14]

The Commission believes that the proposed changes in Appendix 6 regarding the factors and other considerations with respect to acceptable collateral asset haircuts should continue to maintain ICC's ability to limit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and to set and enforce appropriately conservative haircuts for sovereign debt and other acceptable collateral assets. Further, the proposed updates to the governance arrangements for the risk management framework of collateral assets haircuts in Appendix 6 would ensure that the Risk Department establishes haircuts for the respective collateral asset types

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 240.17Ad–22(e)(2)(i) and (v).

[11] 17 CFR 240.17Ad–22(e)(2)(i) and (v).

[12] 17 CFR 240.17Ad–22(e)(3)(i).

[13] 17 CFR 240.17Ad–22(e)(3)(i).

[14] 17 CFR 240.17Ad–22(e)(5).

within measured intervals, and continues to review haircuts at least monthly, subject to regular reviews and more frequent valuation updates, if needed.

For these reasons, the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(e)(5).[15]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act[16] and Rules 17Ad–22(e)(2)(i) and (v), (e)(3)(i), and (e)(5) thereunder.[17]

It is therefore ordered pursuant to Section 19(b)(2) of the Act[18] that the proposed rule change (SR–ICC–2021–007) be, and hereby is, approved.[19]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10498 Filed 5–18–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91887; File No. SR–Phlx–2021–30]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 6, Section 7

May 13, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 6, 2021, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 6, Section 7 to permit in-kind transfers of positions off of the Exchange in connection with unit investment trusts (''UITs'').

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 6, Section 7, which permits off-Exchange, in-kind transfers of options positions in connection with exchange-traded funds (''ETFs'') organized as open-ended management investments companies under the Investment Company Act of 1940 (the ''1940 Act''), to also permit in-kind transfers of options positions in connection with entities registered as UITs under the 1940 Act. This is a competitive filing that is substantially similar to rules in place on Cboe Exchange, Inc. (''Cboe'') and its affiliates.[3]

Today, the Exchange allows members and member organizations to transfer their options positions off of the Exchange in limited, specified circumstances.[4] For instance, Options 6, Section 7 permits positions in options listed on the Exchange to be transferred off the Exchange by a member or member organization in connection with transactions to purchase or redeem creation units of ETF shares between an authorized participant[5] and the issuer of such ETF shares.[6] Such transfers pursuant to Section 7 occur between two different parties, off the Exchange, and are considered position transfers from an account with one clearing firm to the account of another clearing firm.[7] Each of these transfers occurs at the price used to calculate the net asset value (''NAV'') of such ETF shares. The ability to effect in-kind transfers is a key component of the operational structure of an ETF and Options 6, Section 7 allows options-based ETFs to be more tax-efficient investment vehicles, to the benefit of their shareholders, and potentially resulting in transaction cost savings, which may be passed along to investors.

The Exchange now proposes to expand Options 6, Section 7 to mirror the Cboe Rule, which would permit in-kind transfers in connection with the creation or redemption of units issued by a UIT, another type of investment company registered under the 1940 Act. Although UITs operate differently than ETFs in certain respects, as described below, the anticipated potential benefits to UIT investors (*i.e.,* greater tax efficiencies and transaction cost savings) from the proposed changes would be similar as discussed below. Furthermore, allowing the Exchange to permit such in-kind transfers would

[15] 17 CFR 240.17Ad–22(e)(5).

[16] 15 U.S.C. 78q–1(b)(3)(F).

[17] 17 CFR 240.17Ad–22(e)(2)(i) and (v), (e)(3)(i), and (e)(5).

[18] 15 U.S.C. 78s(b)(2).

[19] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Cboe Rule 6.9 (the ''Cboe Rule''); *see also* Securities Exchange Act Release No. 88786 (April 30, 2020), 85 FR 26998 (May 6, 2020) (SR–CBOE–2020–042). *See also* Cboe C2 Exchange (''C2'') Rule 6.63; Securities Exchange Act Release No. 89056 (June 12, 2020), 85 FR 36888 (June 18, 2020) (SR–C2–2020–006). *See also* Cboe BZX Exchange (''BZX'') Rule 20.12; Securities Exchange Act Release No. 89313 (July 14, 2020), 85 FR 43907 (July 20, 2020) (SR–CboeBZX–2020–054). *See also* Cboe EDGX Exchange (''EDGX'') Rule 20.12; Securities Exchange Act Release No. 89312 (July 14, 2020), 85 FR 43887 (July 20, 2020) (SR–CboeEDGX–2020–031).

[4] *See* Options 6, Section 5(a) (Transfer of Positions), Section 6 (Off-Exchange RWA Transfers), and Section 7 (In-Kind Exchange of Options Positions and ETF Shares).

[5] An ''authorized participant'' is an entity that has a written agreement with the issuer of ETF shares or one of its service providers, which allows the authorized participant to place orders for the purchase and redemption of creation units (*i.e.,* specified numbers of ETF shares. *See* Options 6, Section 7(a).

[6] An ''issuer of ETF shares'' is an entity registered with the Commission as an open-ended management investment company under the Investment Company Act of 1940. *See* Options 6, Section 7(b).

[7] These back-office transfers of options positions are in accordance with the rules of The Options Clearing Corporation (''OCC''), as the transferred positions are held in an account of an OCC member. Accordingly, all transfers pursuant to proposed Options 6, Section 7 would be required to comply with OCC rules. *See* Options 1, Section 1(b)(10) and Options 6, Section 8 (which, taken together, effectively requires all members and member organizations that are OCC members to comply with OCC's rules).

enable the Exchange to compete more effectively with other options exchanges that already allow such transfers.[8]

Under the 1940 Act,[9] a UIT is an investment company organized under a trust indenture or similar instrument that issues redeemable securities, each of which represents an undivided interest in a unit of specified securities.[10] A UIT's investment portfolio is relatively fixed and, unlike an ETF, a UIT has a fixed life (a termination date for the trust is established when the trust is created). Similar to other types of investment companies (including ETFs), UITs invest their assets in accordance with their investment objectives and investment strategies, and UIT units represent interests in a UIT's underlying assets. Like ETFs, UITs do not sell or redeem individual shares, but instead, through the creation and redemption process, a UIT's sponsor (a broker-dealer) may purchase and redeem shares directly from the UIT's trustee in aggregations known as ''units.'' A broker-dealer purchases a unit of UIT shares from the UIT trustee by depositing a basket of securities and/or other assets identified by the UIT. These transactions are largely effected by ''in-kind'' transfers, or the exchange of securities, non-cash assets, and/or other non-cash positions. The basket deposited by the broker-dealer is generally expected to be representative of the UIT's units and will be equal in value to the aggregate NAV of the shares of the UIT comprising a unit.[11] The UIT then issues units that are publicly offered and sold. Unlike ETFs, UITs typically do not continuously offer their shares for sale, but rather, make a one-time or limited public offering of only a specific, fixed number of units like a closed-end fund (*i.e.,* the primary period, which may range from a single day to a few months). Similar to the process for ETFs, UITs allow investor-owners of units to redeem their units back to the UIT's trustee on a daily basis and, upon redemption, such investor-owners are entitled to receive the redemption price at the UIT's NAV. While UITs provide for daily redemptions directly with the UIT's trustee, UIT sponsors frequently maintain a secondary market for units, also like that of ETFs, and will buy back units at the applicable redemption price per unit. To satisfy redemptions, a UIT typically sells securities and/or other assets, which results in negative tax implications and an incurrence of trading costs borne by remaining unit holders.

Although ETFs and UITs operate differently in certain respects, the ability to effect in-kind transfers is significant to both types of investment vehicles. Currently, in-kind transfers of options pursuant to Options 6, Section 7 protect ETF shareholders from certain undesirable tax consequences and improve the overall tax efficiency of the products. Indeed, by effecting redemptions on an in-kind basis, as permitted by Options 6, Section 7, there is no need for an ETF to sell assets and potentially realize capital gains that would be distributed to shareholders. Additionally, by transacting on an in-kind basis, ETFs may currently avoid certain transaction costs they would otherwise incur in connection with the purchase and sale of securities and other assets (including options). Options 6, Section 7 does not currently permit these in-kind transfers for UITs as they are still generally required to sell options on an exchange to obtain the requisite cash when effecting redemption transactions with broker-dealers.

In light of the foregoing, the Exchange proposes to extend Options 6, Section 7 to UITs. As amended, Options 6, Section 7 will provide that positions in options listed on the Exchange may be transferred off the Exchange by a member or member organization in connection with transactions (1) to purchase or redeem creation units of ETF shares between an authorized participant and the issuer of such ETF shares or (2) to create or redeem units of a unit investment trust (''UIT'') between a broker-dealer and the issuer of such UIT units, which transfers would occur at the price(s) used to calculate the net asset value of such ETF shares or UIT units, respectively. An ''issuer of UIT units'' will be defined in new paragraph (c) of the Rule as a trust registered with the Commission as a unit investment trust under the Investment Company Act of 1940.

As described above, UITs and ETFs are situated in substantially the same manner; the key differences being a UIT's fixed duration, and that a UIT generally makes a one-time public offering of only a specific, fixed number of units. Negative tax implications and trading costs for remaining unit holders would be mitigated by allowing a UIT sponsor or another broker-dealer to receive an in-kind distribution of options upon redemption. Accordingly, permitting off-Exchange in-kind transfers for UITs would benefit investors by potentially providing tax efficiencies and transaction cost savings similar to those that investors in ETFs may enjoy today.

The Exchange does not believe that the proposed extension of Options 6, Section 7 will compromise price discovery or transparency. To note, this Rule is already applicable to options in connection with ETF creations and redemptions. Although options positions in connection with ETF and UIT (as proposed) creations and redemptions are transferred off the Exchange, they are not closed or ''traded,'' and instead, merely reside in a different clearing account until closed in a trade on the Exchange or until they expire. The Exchange also notes that just like the Cboe Rule, amended Options 6, Section 7 will continue to be clearly delineated and limited in scope, given that the Rule will continue to apply only to transfers of options effected in connection with the creation and redemption process, and for certain investment companies registered under the 1940 Act. Other than the transfers covered by the amended Rule, options transactions, whether held by an ETF or an authorized participant, or a UIT or a broker-dealer, would be fully subject to all applicable trading Rules on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that permitting off-Exchange transfers in connection with the in-kind UIT creation and

[8] *See supra* note 3.

[9] 15 U.S.C. 80a–4(2).

[10] The Exchange also notes that although a majority of ETFs are structured as open-ended funds (*i.e.,* those ETFs covered by Options 6, Section 7), some ETFs are structured as UITs, and currently represent a significant amount of assets within the ETF industry. These include, for example, SPDR S&P 500 ETF Trust (''SPY'') and PowerShares QQQ Trust, Series 1 (''QQQ'').

[11] The NAV is an investment company's total assets minus its total liabilities. UITs must calculate their NAV at least once every business day, typically after market close. See § 270.2a–4(c), which provides that any interim determination of current net asset value between calculations made as of the close of the New York Stock Exchange on the preceding business day and the current business day may be estimated so as to reflect any change in current net asset value since the closing calculation on the preceding business day. This, however, is notwithstanding the requirements of § 270.2a–4(a), which provides for other events that would trigger computation of a UIT's NAV.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

redemption process promotes just and equitable principles of trade and helps remove impediments to and perfect the mechanism of a free and open market and a national market system, as it would permit UITs that invest in options traded on the Exchange to utilize the in-kind creation and redemption process that is currently available for ETFs under Options 6, Section 7. Furthermore, the Exchange believes that permitting a comparable investment vehicle, also registered as an investment company under the 1940 Act, to be covered by Options 6, Section 7 removes impediments to and perfects the mechanism of a free and open market and national market system as it would enable UITs to compete more effectively with other investment vehicles that, based on their portfolio holdings, may effect in-kind creations and redemptions without restriction. The Exchange notes that the ability to effect in-kind transfers is significant to both ETFs and UITs as investment vehicles. By permitting UITs that invest in options traded on the Exchange to benefit from potential tax efficiencies and transaction cost savings similar to those that ETFs may currently enjoy, the proposed rule change would protect investors and the public interest by passing along such potential benefits to investors that participate in UITs. The Exchange does not believe that the proposed rule change affects the protection of investors or the maintenance of a fair and orderly market because Options 6, Section 7, as amended, would continue to be clearly delineated and limited in scope. The Rule already applies to ETFs, which operate in a similar manner as UITs, and the proposed rule change to extend the Rule to UITs is based on a similar rationale and does not raise any new or novel issues. In this regard, as with in-kind, off-exchange transfers of options in connection with ETFs, those transfers in connection with UITs would also occur at a price related to the NAV of the applicable UIT units, which removes the need for price discovery on an exchange. The Exchange expects that off-exchange options transfers in connection with the creation and redemption process for UITs will comprise a minimal percentage of average daily volume (''ADV''), just as such transfers currently permissible in connection with ETFs comprise a minimal percentage of ADV. Further, the general price at which UIT-related transfers are effected will be publicly available as they are based on the disseminated closing prices and are generally expected to include corresponding transactions by a broker-dealer that would occur on an exchange and be reported to OPRA.[14]

Finally, the proposed rule change would align the Exchange's Rule with that of other options exchanges, thereby allowing the Exchange to compete on equal footing.[15]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Utilizing the proposed in-kind process under Options 6, Section 7 would be voluntary. The proposed rule change would provide market participants with an efficient and effective means to transfer positions as part of the creation and redemption process for UITs under the same specified circumstances currently applicable to the ETF creation and redemption process. The proposed expansion of Options 6, Section 7 to UITs would enable this investment vehicle, which is comparable to ETFs, to enjoy the benefits of off-Exchange, in-kind creations and redemptions already available to ETFs, and to pass these benefits along to investors. The proposed rule change would apply in the same manner to all broker-dealers that opt to invoke the proposed in-kind process.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule would continue to provide a clearly delineated and limited circumstance in which options positions can be transferred off an exchange. Furthermore, as indicated above, in light of the significant benefits provided (*e.g.,* tax efficiencies and potential transaction cost savings), the proposed expansion may lead to further development of UITs that invest in options, thereby fostering competition and resulting in additional choices for investors, which ultimately benefits the marketplace and the public. Lastly, the Exchange notes that proposed rule change is based rules already in place on other options exchanges.[16] As such, the Exchange believes that its proposal enhances fair competition between markets by providing for additional listing venues for UITs that hold options to utilize the in-kind transfers proposed herein.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[17] and subparagraph (f)(6) of Rule 19b–4 thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b–4(f)(6)(iii)[19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that it may adopt the proposed transfer rule as soon as possible, which, according to the Exchange, may lead to further development of UITs that invest in options and foster competition. The proposed rule change does not present any unique or novel regulatory issues and is substantively similar to the Cboe

[14] The Exchange notes that in conjunction with depositing options with a UIT's trustee and creating units, the necessary options positions will be acquired in an on-exchange transaction that is reported to OPRA. In conjunction with redemptions, the sponsor or other broker-dealer will generally acquire both the units redeemed by a redeeming unit holder and an options position to offset the position that it will receive as proceeds for the redemption. Such an options position is likely acquired in an on-exchange transaction that would be reported to OPRA. Thus, while the transfer of options positions between the sponsor or other broker-dealer and the UIT would not necessarily be reported, there are generally corresponding transactions that would be reported, providing transparency into the transactions.

[15] *See supra* note 3.

[16] *See supra* note 3.

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6)(iii).

Rule.[20] Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2021–30 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–Phlx–2021–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2021–30 and should be submitted on or before June 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10497 Filed 5–18–21; 8:45 am]

BILLING CODE 8011–01–P

[20] *See supra* note 3.

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Meeting of the Interagency Task Force on Veterans Small Business Development

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

ACTION: Notice of open Federal Advisory Committee Meeting.

SUMMARY: The SBA is issuing this notice to announce the date, time, and agenda for the next meeting of the Interagency Task Force on Veterans Small Business Development (IATF).

DATES: Wednesday, June 2, 2021, from 1:00 p.m. to 3:00 p.m. EDT.

ADDRESSES: Due to the coronavirus pandemic, the meeting will be held via Microsoft Teams.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is strongly encouraged. To RSVP and confirm attendance, the general public should email *veteransbusiness@sba.gov* with subject line—''RSVP for June 2, 2021, IATF Public Meeting.'' To submit a written comment, individuals should email *veteransbusiness@sba.gov* with subject line—''Response for 6/2/2021, IATF Public Meeting'' no later than May 26, 2021 or contact Timothy Green, Deputy Associate Administrator, Office of Veterans Business Development (OVBD) at (202) 205–6773. Comments received in advanced will be addressed as time allows during the public comment period. All other submitted comments will be included in the meeting record. During the live meeting, those who wish to comment will be able to do so during the public comment period.

Participants can join the meeting via computer *http://bit.ly/IATFJune* or phone. Call in (audio only): Dial In: 202–765–1264: Phone Conference ID: 979863534#.

Special accommodation requests should be directed to OVBD at (202) 205–6773 or *veteransbusiness@sba.gov*. All applicable documents will be posted on the IATF website prior to the meeting: *https://www.sba.gov/page/interagency-task-force-veterans-small-business-development.* For more information on veteran owned small business programs, please visit *www.sba.gov/ovbd.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development (IAFT). The IATF is established pursuant to Executive Order 13540 to coordinate the efforts of Federal agencies to improve capital, business development opportunities, and pre-established federal contracting goals for small business concerns owned and controlled by veterans and service-disabled veterans.

The purpose of this meeting is to discuss efforts that support veteran-owned small businesses, updates on past and current events, and the IATF's objectives for fiscal year 2021.

Dated: May 14, 2021.

Andrienne Johnson,

Committee Management Officer.

[FR Doc. 2021–10484 Filed 5–18–21; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 11421]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Sean Scully: The Shape of Ideas'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Sean Scully: The Shape of Ideas,'' at the Modern Art Museum of Fort Worth, in Fort Worth, Texas, at the Philadelphia Museum of Art, Philadelphia, Pennsylvania, and at

possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Matthew R. Lussenhop,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2021–10568 Filed 5–18–21; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA). The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject project and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to 23 U.S.C. 139(l). A claim seeking judicial review of FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before October 18, 2021.

FOR FURTHER INFORMATION CONTACT: Micah M. Miller, Regional Counsel, Office of Chief Counsel, (404) 865–5474 or Saadat Khan, Environmental Protection Specialist, Office of Environmental Programs, (202) 366–9647. FTA is located at 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation project listed below. The actions on the project, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA environmental project file for the project. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at *https://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed project as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) requirements [23 U.S.C. 138, 49 U.S.C. 303], Section 106 of the National Historic Preservation Act [54 U.S.C. 306108], Endangered Species Act [16 U.S.C. 1531], Clean Water Act [33 U.S.C. 1251], the Uniform Relocation and Real Property Acquisition Policies Act [42 U.S.C. 4601], and the Clean Air Act [42 U.S.C. 401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**.

The project and actions that are the subject of this notice follow: *Project name and location:* Dallas CBD Second Light Rail Alignment (D2 Subway) Project, City of Dallas, Texas. *Project Sponsor:* Dallas Area Rapid Transit (DART), City of Dallas, Texas. *Project description:* The project includes a 2.4-mile light rail transit (LRT) alignment extending from the existing Victory Station through the core of downtown Dallas, reconnecting to the Green Line along North Good Latimer Expressway in the Deep Ellum Area. The Project would include four new stations and would relocate the existing Deep Ellum Station approximately one block to the north, renamed as the Live Oak Station, due to the new Green Line connection. The alignment would be a combination of at-grade and below-grade sections, with the below-grade subway segment running primarily under Griffin and Commerce Streets. *Final agency action:* Section 4(f) use determination; executed Section 106 Programmatic Agreement, dated December 21, 2020; Dallas CBD Second Light Rail Alignment (D2 Subway) Project Combined Final Environmental Impact Statement (FEIS)/Record of Decision (ROD), dated April 9, 2021. *Supporting documentation:* Dallas CBD Second Light Rail Alignment (D2 Subway) Project Supplement Draft Environmental Impact Statement (SDEIS), dated, May 05, 2020. The Combined FEIS/ROD and associated documents can be viewed and downloaded from: *www.DART.org/D2.*

(Authority: 23 U.S.C. 139(l)(1))

Mark A. Ferroni,

Deputy Associate Administrator for Planning and Environment.

[FR Doc. 2021–10572 Filed 5–18–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Claim for Lost, Stolen, or Destroyed U.S. Savings Bonds and Supplemental Statement for U.S. Securities

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning Claim for Lost, Stolen, or Destroyed U.S. Savings Bonds and Supplemental Statement for U.S. Securities.

DATES: Written comments should be received on or before July 19, 2021 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Claim for Lost, Stolen, or Destroyed U.S. Savings Bonds and Supplemental Statement for U.S. Securities.

OMB Number: 1530–0021.

Form Number: FS Form 1048 and FS Form 2243.

Abstract: The information is requested to issue owners substitute securities or payment in lieu of lost, stolen or destroyed securities.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 72,000.

Estimated Time per Respondent: 20 minutes for FS Form 1048, and 5 minutes for FS Form 2243.

Estimated Total Annual Burden Hours: 20,352 hours.

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: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. 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 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 13, 2021.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2021–10507 Filed 5–18–21; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Request by Fiduciary for Distribution of United States Treasury Securities

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Request by Fiduciary For Distribution of United States Treasury Securities.

DATES: Written comments should be received on or before July 19, 2021 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request by Fiduciary For Distribution of United States Treasury Securities.

OMB Number: 1530–0035.

Form Number: FS Form 1455.

Abstract: One or more fiduciaries (individual or corporate) must use this form to establish entitlement and request distribution of United States Treasury Securities and/or related payments to the person lawfully entitled due to termination of a trust, distribution of an estate, attainment of majority, restoration to competency, or other reason.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 3,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,500.

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: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. 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 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 13, 2021.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2021–10508 Filed 5–18–21; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Recruitment Notice for the Taxpayer Advocacy Panel; Change

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice; change.

SUMMARY: The IRS published a document in the **Federal Register** on April 20, 2021 (86 FR 20611), correcting a Recruitment Notice for their Taxpayer Advocacy Panel. The IRS has a need for correction.

FOR FURTHER INFORMATION CONTACT: Lisa Billups at (214) 413–6523 (not a toll-free call).

SUPPLEMENTARY INFORMATION: Correction; In the **Federal Register** of April 20, 2021, in FR Doc. 2021–08030, on page 2061, in the first column, under the caption **SUMMARY** is corrected to read: **SUMMARY:** In the **Federal Register** notice that was originally published on April 20, 2021, (Volume 86, Number 74, Page 20611) the recruitment time-period was April 5, 2021 through May 14, 2021. The new time period is from April 5, 2021 through June 1, 2021. All other details remain unchanged.

Dated: May 14, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–10546 Filed 5–18–21; 8:45 am]

BILLING CODE 4830–01–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meetings; Unified Carrier Registration Plan Board Subcommittee Meeting

TIME AND DATE: May 21, 2021, 12:00 p.m. to 2:00 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll) or (ii) 1–877–853–5247 (US Toll Free) or 1–888–788–0099 (US Toll Free), Meeting ID: 943 9798 7597, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/j/94397987597.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Finance Subcommittee (the ''Subcommittee'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—Subcommittee Chair

The Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—Subcommittee Chair

For Discussion and Possible Subcommittee Action

The Agenda will be reviewed, and the Subcommittee will consider adoption.

Ground Rules

➢ Subcommittee action only to be taken in designated areas on agenda.

IV. Review and Approval of Subcommittee Minutes From the April 29, 2021 Meeting—Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the April 29, 2021 Subcommittee meeting via teleconference will be reviewed. The Subcommittee will consider action to approve.

V. Audit Module Development Discussion With the Education and Training Subcommittee—UCR Operations Director

For Discussion and Possible Subcommittee Action

The Subcommittee will discuss and provide updates on development of the Audit Module. The Subcommittee may take action to approve the Audit Module for posting on the Education and Training Center on the UCR Plan website.

VI. Other Business—Subcommittee Chair

The Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

VII. Adjournment—Subcommittee Chair

The Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, May 14, 2021 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2021–10664 Filed 5–17–21; 4:15 pm]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0222]

Agency Information Collection Activity Under OMB Review: Claim for Standard Government Headstone or Marker and Claim for Government Medallion for Placement in a Private Cemetery

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Department of Veterans Affairs (VA), National Cemetery Administration (NCA) will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0222.''

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0222'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; U.S.C. 3501–21.

Title: VA Form 40–1330, Claim for Standard Government Headstone or Marker, and VA Form 40–1330M, Claim for Government Medallion for Placement in a Private Cemetery.

OMB Control Number: 2900–0222.

Type of Review: Reinstatement with change of a previously approved collection.

Abstract: The National Cemetery Administration (NCA) updated its current VA Form 40–1330 and VA Form 40–1330M. The original VA Form 40–1330 and 40–1330M is a request for a Government-furnished headstone or marker, or medallion, respectively. The updates include the following:

- Information about the Presidential Memorial Certificate (PMC) Program and the option to receive a PMC in addition to the headstone, marker or medallion, consistent with 38 U.S.C. 112.
- Changes in eligibility for a medallion, consistent with 38 U.S.C. 2306(d)(4)(A).
- Addition of race, ethnicity, gender identify, and age demographic information for VA's statistical purposes (see item 11), consistent with Public Law 103–446, Section 509, Center for Minority Veterans and Center for Women Veterans.
- Addition of new emblems of belief consistent with 38 U.S.C. 2306(c) and 38 CFR 38.630(b) and 38.632(b)(2).
- Update parenthetical in Block 12 to (OPTIONAL, BUT IF INCLUDED, NO PAY GRADES).
- Update parenthetical in Block 14 to (OPTIONAL, BUT IF INCLUDED PROVIDE DOCUMENTATION).
- Update parenthetical in Block 16 to (OPTIONAL, BUT IF PROVIDED CHECK ALL APPLICABLE BOXES).
- Addition of statement in the Transportation and Delivery of Marker section for consignee to inspect the headstone or marker for accuracy prior to installation.
- Addition of information and picture of new small flat granite marker, consistent with 38 U.S.C. 2306(c) and 38 CFR 38.630(a).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information

unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 51 on March 18, 2021, pages 14799 and 14800.

Affected Public: Individuals or Households.

Estimated Annual Burden: 41,534.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 166,135.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–10483 Filed 5–18–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Tribal Consultation on the Department of Veterans Affairs' State Home Programs

AGENCY: Department of Veterans Affairs.

ACTION: Notice of tribal consultation.

SUMMARY: The Department of Veterans Affairs (VA) is seeking Tribal consultation to assist VA in implementing the requirements of section 3004 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (the Act), The Act amended the statutory authorities of two VA programs (the State Veterans Home Construction Grant Program and the State Home Per Diem Program) so that Indian tribes were included in definitions for ''state'' and ''state home.'' VA is required to consult with Indian tribes to determine if any legislative or administrative action is necessary to modify these state home programs to function efficiently in support of state Veterans homes operated by Indian tribes pursuant to the amendments made by section 3004 of the Act. VA seeks input on the legislative, regulatory and administrative modifications that may be necessary to support State Veterans Homes operated by American Indian and Alaska Native tribes in response to these amendments.

DATES: Comments must be received by VA on or before July 3, 2021.

ADDRESSES: Written comments may be submitted by any of the following methods:

- Federal Rulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Email to *tribalgovernmentconsultation@va.gov.*
- By mail to U.S. Department of Veterans Affairs, Office of Geriatrics and Extended Care (12GEC), 810 Vermont Avenue NW, Washington, DC 20420. Comments should indicate that the submission is in response to ''Notice of Tribal Consultation State Veterans Homes.''

FOR FURTHER INFORMATION CONTACT: Scotte Hartronft, M.D., Executive Director, Office of Geriatrics and Extended Care (12GEC), U.S. Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–461–6750. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

On January 5, 2021, the Act, Public Law 116–315, was passed into law. Among other things, this legislation (per section 3004(a)–(c)) changed or added statutory definitions for ''state home'' and ''state'' with regard to VA's State Veterans Home Construction Grant and State Home Per Diem Programs (hereinafter combinedly referred to as ''State Veterans Home Programs'') to include Indian tribes (as defined in 25 U.S.C. 5304). Per section 3004(d)(1) of the Act, not later than 180 days after the date of enactment of the Act, VA must consult with Indian tribes to determine if any legislative or administrative action is necessary to modify the State Veterans Home Programs to function efficiently in support of state homes operated by Indian tribes pursuant to the amendments made by section 3004. Per section 3004(d)(2) of the Act, not later than 90 days after completing these consultations, VA must also submit to the appropriate committees of Congress a report recommending legislative action that VA considers appropriate to modify the State Veterans Home Programs in light of those consultations. Per section 3004(d)(3), not later than 180 days after completing these consultations, VA must also make any modifications to regulations implementing the State Veterans Home Programs, for which legislative action is not necessary, as VA considers appropriate in light of those consultations. Therefore, in accordance with section 3004(d)(1), and prior to submitting a report to Congress and making any modifications to regulations, VA seeks consultation with American Indian and Alaska Native tribes.

Pursuant to section 1741 through 1745 of title 38, United States Code, VA provides per diem payments to states for eligible Veterans receiving domiciliary or nursing care in a state home. This is referred to as the State Home Per Diem Program, and VA has implemented this program through regulations in Part 51 of title 38, Code of Federal Regulations (CFR). Pursuant to 38 U.S.C. 8131 through 8138, VA provides funding to assist states to construct state home facilities (or to acquire facilities that are to be used as state homes facilities) for furnishing domiciliary or nursing home care to Veterans, and to expand, remodel or alter existing buildings for furnishing domiciliary, nursing home or adult day health care to Veterans in state homes. This program is referred to as the State Veterans Home Construction Grant Program and was implemented by VA through 38 CFR part 59.

While, historically, these two programs have been available only to states, section 3004 of the Act amended this by revising the definitions of state home in 38 U.S.C. 101(19) and state in 38 U.S.C. 8131(2) to include Indian tribes (as defined in 25 U.S.C. 5304), and adding a definition for state in 38 U.S.C. 1741 to include Indian tribes (as defined in 25 U.S.C. 5304). These changes allow American Indian and Alaska Native tribes to apply for the State Veterans Home Programs. As previously mentioned, section 3004 of the Act requires VA to consult with American Indian and Alaska Native tribes to determine if any legislative or administrative action is necessary to modify the State Veterans Home Programs to function efficiently in support of state homes operated by American Indian and Alaska Native tribes pursuant to the amendments made by section 3004. Per section 3004 of the Act, after completion of such consultations, VA will submit a report to Congress recommending legislative action to modify the State Veterans Home Programs and will make modifications to regulations implementing the State Veterans Home programs as necessary.

Through this tribal consultation, VA will ensure that the needs of the American Indian and Alaska Native Veterans and the priorities of tribal governments are taken into consideration as part of any changes VA makes to the State Veterans Home Programs, now and in the future. Such changes have the potential to increase American Indian and Alaska Native Veterans' access to health care (specifically, nursing home, domiciliary and adult day health care). The Veterans

Health Administration (VHA) will use input received from tribal leaders to inform Congress of any recommended legislative action appropriate to modify the State Veterans Home Programs and related implementation regulations.

Tribal Consultation

Pursuant to changes made by section 3004 of the Act, VA is seeking written comments from tribal leaders and representatives on what legislative, regulatory and administrative modifications may be necessary to support State Veterans Homes operated by American Indian and Alaska Native tribes. Through this tribal consultation, the Secretary seeks information on the questions listed below. Comments do not need to address every question and should focus on those that relate to their expertise or perspectives. To the extent possible, please clearly indicate which questions you address in your response and include any rationale and information to support your response.

1. Are changes to 38 U.S.C. 1741 through 1745 needed so that the State Home Per Diem Program functions efficiently in support of state homes operated by American Indian and Alaska Native tribes (as defined in 25 U.S.C. 5304)? If so, what changes do you recommend be made to these authorities and why?

2. Are changes to 38 U.S.C. 8131 through 8138 needed so that the State Home Construction Grant Program functions efficiently in support of state homes operated by American Indian and Alaska Native tribes (as defined in 25 U.S.C. 5304)? If so, what changes do you recommend be made to these authorities and why?

3. Are changes to 38 CFR part 51 needed so that the State Home Per Diem Program functions efficiently in support of state homes operated by American Indian and Alaska Native tribes (as defined in 25 U.S.C.

4. 5304)? If so, what changes do you recommend be made to the regulations and why? These regulations are located at: *https://www.ecfr.gov/cgi-bin/text-idx?SID=7e1be46cc62e7f0ecde2ac13524459d5&mc=true&node=pt38.2.51&rgn=div5.*

5. Are changes to 38 CFR part 59 needed so that the State Home Construction Grant Program functions efficiently in support of state homes operated by American Indian and Alaska Native tribes (as defined in 25 U.S.C. 5304)? If so, what changes do you recommend be made to the regulations and why? These regulations are located at: *https://www.ecfr.gov/cgi-bin/text-idx?SID=7e1be46cc62e7f0ecde2ac13524459d5&mc=true&node=pt38.2.59&rgn=div5.*

6. What administrative actions, if any, do you recommend are needed to modify the State Veterans Home Programs to function efficiently in support of state Veterans homes operated by American Indian and Alaska Native tribes (as defined in 25 U.S.C. 5304)?

Webinar

As part of this tribal consultation, and so tribes can provide thoughtful and thorough responses to the questions above, VA is providing tribes with a virtual webinar that will provide detailed information about the State Veterans Home Programs. On May 25, 2021, VHA will provide an educational virtual webinar session that will include describing the requirements for receiving a State Veterans Home Construction Program grant; how to seek recognition and certification of a state Veterans home; how per diem payments are calculated; and the requirements to receive per diem payments. The webinar is an additional opportunity for participants to get questions answered, and to engage in an open discussion with leaders of the VA Office of Geriatrics and Extended Care about how VHA can better serve the long term and geriatric care needs of American Indian and Alaska Native Veterans. The webinar is voluntary. Registration for this event is located at *https://veteransaffairs.webex.com/veteransaffairs/onstage/g.php?MTID=e45a91c0eb17719cd7b724f96d810cf83.*

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on May 13, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2021–10556 Filed 5–18–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans and Survivors Pension and Parents' Dependency and Indemnity Compensation Cost of Living Adjustments Effective December 1, 2020

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice.

SUMMARY: As required by law, VA is hereby giving notice of Cost-of-Living Adjustments (COLA) in certain benefit rates and income limitations. These COLAs affect the Pension and Parents' Dependency and Indemnity Compensation (DIC) programs. The rate of the adjustment is tied to the increase in Social Security benefits effective December 1, 2020, as announced by the Social Security Administration (SSA). SSA has announced an increase of 1.3%.

DATES: The COLAs became effective December 1, 2020, as required by 38 U.S.C. 5312.

FOR FURTHER INFORMATION CONTACT: Terrence Minyard, Pension Analyst, Pension and Fiduciary Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–632–8863. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under the provisions of 38 U.S.C. 5312 and section 306 of Public Law 95–588, VA is required to increase the benefit rates and income limitations in the Pension and Parents' DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under Title II of the Social Security Act. VA is required to publish the increased rates and income limitations in the **Federal Register**.

The Social Security Administration announced a 1.3% COLA increase in Social Security benefits effective December 1, 2020. Therefore, applying the same percentage and rounding in accordance with 38 CFR 3.29, the following increased rates and income limitations for the VA Pension and Parents' DIC programs became effective December 1, 2020:

Pension

Maximum Annual Rates—Veterans

(1) Veterans permanently and totally disabled (38 U.S.C. 1521):

Veteran with no dependents, $13,931.

Veteran with one dependent, $18,243.

For each additional dependent, $2,382.

(2) Veterans in need of aid and attendance (38 U.S.C. 1521):

Veteran with no dependents, $23,238.

Veteran with one dependent, $27,549.

For each additional dependent, $2,382.

(3) Veterans who are housebound (38 U.S.C. 1521):

Veteran with no dependents, $17,024.

Veteran with one dependent, $21,337.

For each additional dependent, $2,382.

(4) Two Veterans married to one another, combined rates (38 U.S.C. 1521):

Neither Veteran in need of aid and attendance or housebound, $18,243.

Either Veteran in need of aid and attendance, $27,549.

Both Veterans in need of aid and attendance, $36,861.

Either Veteran housebound, $21,337.

Both Veterans housebound, $24,428.

One Veteran housebound and one Veteran in need of aid and attendance, $30,635.

For each dependent child, $2,382.

(5) Net worth limit under 38 CFR 3.274(a):

For purposes of entitlement to VA pension, the net worth limit effective December 1, 2020, is $130,773.

(6) Monthly Penalty Rate under 38 CFR 3.276(e)(1):

The monthly penalty rate is $2,295.

Mexican border period and World War I Veterans: The applicable maximum annual rate payable to a Mexican border period or World War I Veteran under this table shall be the applicable rate under paragraph (1)–(4), increased by $3,166. (38 U.S.C. 1521(g)).

Maximum Annual Rates—Survivor Beneficiaries

(7) Surviving spouse alone and with a child or children of the deceased Veteran in custody of the surviving spouse (38 U.S.C. 1541):

Surviving spouse alone, $9,344.

Surviving spouse and one child in his or her custody, $12,229.

For each additional child in his or her custody, $2,382.

(8) Surviving spouses in need of aid and attendance (38 U.S.C. 1541, 1536):

Surviving spouse alone, $14,934.

Surviving spouse with one child in custody, $17,815.

Surviving Spouse of Spanish-American War Veteran alone, $15,539.

Surviving Spouse of Spanish-American War Veteran with one child in custody, $18,355.

For each additional child in his or her custody, $2,382.

(9) Surviving spouses who are housebound (38 U.S.C. 1541):

Surviving spouse alone, $11,420.

Surviving spouse and one child in his or her custody, $14,300.

For each additional child in his or her custody, $2,382.

(10) Surviving child alone (38 U.S.C. 1542), $2,382.

(11) Net worth limit under 38 CFR 3.274(a):

For purposes of entitlement to VA pension, the net worth limit effective December 1, 2020, is $130,773.

(12) Monthly Penalty Rate under 38 CFR 3.276(e)(1):

The monthly penalty rate effective December 1, 2020, is $2,295.

Reduction for income: The rate payable is the applicable maximum rate minus the countable annual income of the eligible person. (38 U.S.C. 1521, 1541 and 1542).

Section 306 Pension Income Limitations

Veteran or surviving spouse with no dependents, $15,845 (Pub. L. 95–588, section 306(a)).

Veteran in need of aid and attendance with no dependents, $16,415 (38 U.S.C. 1521(d) as in effect on December 31, 1978).

Veteran or surviving spouse with one or more dependents, $21,298 (Pub. L. 95–588, section 306(a)).

Veteran in need of aid and attendance with one or more dependents, $21,866 (38 U.S.C. 1521(d) as in effect on December 31, 1978).

Child (no entitled Veteran or surviving spouse), $12,956 (Pub. L. 95–588, section 306(a)).

Spouse income exclusion (38 CFR 3.262), $5,060 (Pub. L. 95–588, section 306(a)(2)(B)).

Old-Law Pension Income Limitations

Veteran or surviving spouse without dependents or an entitled child, $13,875 (Pub. L. 95–588, section 306(b)).

Veteran or surviving spouse with one or more dependents, $19,997 (Pub. L. 95–588, section 306(b)).

Parents' DIC

DIC shall be paid monthly to parents of a deceased Veteran in the following amounts (38 U.S.C. 1315):

One parent (38 U.S.C. 1315(b)): If there is only one parent, the monthly rate of DIC paid to such parent shall be $672, reduced on the basis of the parent's annual income according to the following formula:

For each $1 of annual income which is more than $0.00 but not more than $800, the $672 monthly rate shall not be reduced.

For each $1 of annual income which is more than $800 but not more than $9,138, the monthly rate shall be reduced by $0.08.

For each $1 of annual income which is more than $9,138, the monthly rate will not be reduced.

No Parents' DIC is payable under this table if annual income exceeds $15,845.

One parent who has remarried: If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under 38 U.S.C. 1315(b) or under 38 U.S.C. 1315(d), whichever shall result in the greater benefit being paid to the Veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

One of two parents not living with spouse (38 U.S.C. 1315(c)): The rates below apply to (1) two parents who are not living together, or (2) an unmarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be $487 reduced on the basis of each parent's annual income, according to the following formula:

For each $1 of annual income which is more than $0 but not more than $800, the $487 monthly rate shall not be reduced.

For each $1 of annual income which is more than $800 but not more than $6,825, the monthly rate shall be reduced by $0.08.

For each $1 of annual income which is more than $6,825, the monthly rate shall not be reduced.

No Parents' DIC is payable under this table if annual income exceeds $15,845.

One of two parents living with spouse or other parent (38 U.S.C. 1315(d)): The rates below apply to each parent living with another parent; and each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $458 reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:

For each $1 of annual income which is more than $0 but not more than $1,000, the $458 monthly rate shall not be reduced.

For each $1 of annual income which is more than $1,000 but not more than $1,400, the monthly rate shall be reduced by $0.03.

For each $1 of annual income which is more than $1,400 but not more than $1,700, the monthly rate shall be reduced by $0.04.

For each $1 of annual income which is more than $1,700 but not more than $2,000, the monthly rate shall be reduced by $0.05.

For each $1 of annual income which is more than $2,000 but not more than $2,300, the monthly rate shall be reduced by $0.06.

For each $1 of annual income which is more than $2,300 but not more than $2,600, the monthly rate shall be reduced by $0.07.

For each $1 of annual income which is more than $2,600 but not more than $7,225, the monthly rate shall be reduced by $0.08.

For each $1 of annual income which is more than $7,225, the monthly rate shall not be reduced.

No Parents' DIC is payable if the annual income exceeds $21,298.

These rates are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in the rates for 38 U.S.C. 1315(b) for one parent.

Aid and attendance: The monthly rate of DIC payable to a parent per the guidelines above shall be increased by $364 if such parent is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

Minimum rate: The monthly rate of DIC payable to any parent shall not be less than $5.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on May 10, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

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Part II

Environmental Protection Agency

40 CFR Parts 9 and 84
Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program Under the American Innovation and Manufacturing Act; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 84

[EPA–HQ–OAR–2021–0044; FRL–10023–08–OAR]

RIN 2060–AV17

Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program Under the American Innovation and Manufacturing Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing to issue regulations to implement certain provisions of the American Innovation and Manufacturing Act, as enacted on December 27, 2020. This rulemaking proposes to: Establish the hydrofluorocarbon production and consumption baselines based on historical data; establish the allowance allocation program to phase down hydrofluorocarbon production and consumption; determine an initial methodology to allocating allowances and allowing for the transfer of those allowances; establish provisions for the international transfer of allowances; establish requirements to support compliance with phasing down hydrofluorocarbon production and consumption; establish recordkeeping and reporting requirements; release certain data to provide transparency and support implementation of the program; and, address certain other elements related to the effective implementation of the American Innovation and Manufacturing Act. In addition to the proposed provisions, EPA is seeking advance input on how the Agency may alter its determination of company-specific allocations in later years. EPA is considering these issues, and therefore is seeking public input on them, but is not making any particular proposal in relation to them, and therefore will not finalize any requirements on these topics before issuing a notice of proposed rulemaking and requesting public comment.

DATES: Comments on this notice of proposed rulemaking must be received on or before July 6, 2021. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before June 18, 2021. The Environmental Protection Agency (EPA) will hold a virtual public hearing on June 3, 2021. The date, time, and other relevant information for the virtual public hearing will be available at *https://www.epa.gov/climate-hfcs-reduction.*

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2021–0044, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. EPA is temporarily suspending its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov* as there may be a delay in processing mail. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at*https://www.epa.gov/dockets.*

You may find the following suggestions helpful for preparing your comments: Direct your comments to specific sections of this proposed rulemaking and note where your comments may apply to future separate actions where possible; explain your views as clearly as possible; describe any assumptions that you used; provide any technical information or data you used that support your views; provide specific examples to illustrate your concerns; offer alternatives; and, make sure to submit your comments by the comment period deadline. Please provide any published studies or raw data supporting your position. 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 (*e.g.,* on the web, cloud, or other file sharing system).

If you produced, imported, exported, or destroyed hydrofluorocarbons (HFCs) and were subject to the regulatory Greenhouse Gas Reporting Program (GHGRP) [1] requirements (under 40 CFR part 98) and are seeking to provide EPA with your past HFC activity, you must report that data to EPA's electronic Greenhouse Gas Reporting Tool (e-GGRT) (*https://ghgreporting.epa.gov/ghg/login.do*). Companies that were not subject to the GHGRP may also submit HFC activity through e-GGRT. Information on how to report through e-GGRT in general is available at: *https://ccdsupport.com/confluence,* and specific guidance on HFC reporting is available at: *https://ccdsupport.com/confluence/display/help/e-GGRT+and+HFC+Data+Reporting+related+to+AIM.* EPA requests that any company that reports on HFC activity to the GHGRP in response to the requests in this proposed rule also submit a comment to the docket noting the date that the company submitted the information to e-GGRT so that EPA can more easily track such submissions.

EPA recognizes that given the nature of this proposed rulemaking, potentially affected entities may wish to submit Confidential Business Information (CBI) or other confidential information. CBI should not be submitted through *https://www.regulations.gov.* For submission of confidential comments or data (*e.g.,* information relevant to your company's use of a hydrofluorocarbon in an application listed in subsection (e)(4)(B)(iv) titled Mandatory Allocations), please work with the person listed in the **FOR FURTHER INFORMATION CONTACT** section, particularly if submitting a comment containing CBI. For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andy Chang, U.S. Environmental Protection Agency, Stratospheric Protection Division, telephone number:

[1] OMB Control No. 2060–0629.

202–564–6658; or email address: *chang.andy@epa.gov.* You may also visit EPA's website at *https://www.epa.gov/climate-hfcs-reduction* for further information.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever ''we,'' ''us,'' ''the Agency,'' or ''our'' is used, we mean EPA. Acronyms that are used in this rulemaking that may be helpful include:

AD/CVD—Anti-Dumping/Countervailing Duties
AIM Act—American Innovation and Manufacturing Act of 2020
ANPRM—Advanced Notice of Proposed Rulemaking
CAA—Clean Air Act
CBI—Confidential Business Information
CBP—Customs and Border Protection
CFC—Chlorofluorocarbon
CO_2—Carbon Dioxide
DRE—Destruction and Removal Efficiency
e-GGRT—Electronic Greenhouse Gas Reporting Tool
EVe—Exchange Value Equivalent
GHG—Greenhouse Gas
GHGRP—Greenhouse Gas Reporting Program
GWP—Global Warming Potential
HCFC—Hydrochlorofluorocarbon
HFC—Hydrofluorocarbon
IPCC—Intergovernmental Panel on Climate Change
MDI—Metered Dose Inhaler
$MMTCO_2$ eq—Million Metric Tons of Carbon Dioxide Equivalent
MMTEVe—Million Metric Tons of Exchange Value Equivalent
MT—Metric tons
$MTCO_2$ eq—Metric Tons of Carbon Dioxide Equivalent
MVAC—Motor Vehicle Air Conditioner
NAICS—North American Industry Classification System
NPRM—Notice of Proposed Rulemaking
NRC—National Research Council
ODP—Ozone Depletion Potential
ODS—Ozone-Depleting Substance
RIA—Regulatory Impact Analysis
SC–HFCs—Social Cost of HFCs
TRI—Toxics Release Inventory
USGCRP—U.S. Global Change Research Program

This supplementary information section is arranged as follows:

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I. What is the background for this proposed action?

A. Does this proposed action apply to me?

You may be potentially affected by this proposal if you produce, import, export, destroy, use as a feedstock, reclaim, or otherwise distribute HFCs. You may also be potentially affected by this proposal if you use HFCs to manufacture products, such as

refrigeration and air conditioning systems, foams, aerosols, and fire suppression systems, and the six applications eligible for an allocation under section (e)(4)(B)(iv) of the American Innovation and Manufacturing Act of 2020 (AIM Act or the Act). Potentially affected categories, North American Industry Classification System (NAICS) codes, and examples of potentially affected entities are included in Table 1.

TABLE 1—NAICS CLASSIFICATION OF POTENTIALLY AFFECTED ENTITIES

NAICS code	NAICS industry description
211120	Crude Petroleum Extraction.
221210	Natural Gas Distribution.
236118	Residential Remodelers.
236220	Commercial and Institutional Building Construction.
238220	Plumbing, Heating, and Air-Conditioning Contractors.
238990	All Other Specialty Trade Contractors.
311351	Chocolate and Confectionery Manufacturing from Cacao Beans.
322299	All Other Converted Paper Product Manufacturing.
325120	Industrial Gas Manufacturing.
325180	Other Basic Inorganic Chemical Manufacturing.
325199	All Other Basic Organic Chemical Manufacturing.
325211	Plastics Material and Resin Manufacturing.
325320	Pesticide and Other Agricultural Chemical Manufacturing.
325412*	Pharmaceutical Preparation Manufacturing.
325414*	Biological Product (except Diagnostic) Manufacturing.
325992	Photographic Film, Paper, Plate and Chemical Manufacturing.
325998	All Other Miscellaneous Chemical Product and Preparation Manufacturing.
326150*	Urethane and Other Foam Product.
331420	Copper Rolling, Drawing, Extruding, and Alloying.
332312	Fabricated Structural Metal Manufacturing.
332313	Plate Work Manufacturing.
333132	Oil and Gas Field Machinery and Equipment Manufacturing.
333314	Optical Instrument and Lens Manufacturing.
333316	Photographic and Photocopying Equipment Manufacturing.
333413	Industrial and Commercial Fan and Blower and Air Purification Equipment Manufacturing.
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.
333611	Turbine and Turbine Generator Set Unit Manufacturing.
333996	Fluid Power Pump and Motor Manufacturing.
334413*	Semiconductor and Related Device Manufacturing.
334419*	Other Electronic Component Manufacturing.
334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals.
334516	Analytical Laboratory Instrument Manufacturing.
334613	Blank Magnetic and Optical Recording Media Manufacturing.
336212*	Truck Trailer Manufacturing.
336214*	Travel Trailer and Camper Manufacturing.
336411*	Aircraft Manufacturing.
336510	Railroad Rolling Stock Manufacturing.
336611*	Ship Building and Repairing.
336612*	Boat Building.
336992*	Military Armored Vehicle, Tank, and Tank Component Manufacturing.
339999*	All Other Miscellaneous Manufacturing.
SIC 373102*	Military Ships, Building, and Repairing.
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers.
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers.
423460	Ophthalmic Goods Merchant Wholesalers.
423730	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers.
423740	Refrigeration Equipment and Supplies Merchant Wholesalers.
423830	Industrial Machinery and Equipment Merchant Wholesalers.
423860*	Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers.
423990*	Other Miscellaneous Durable Goods Merchant Wholesalers.
424210	Drugs and Druggists' Sundries Merchant Wholesalers.
424410	General Line Grocery Merchant Wholesalers.
424610	Plastics Materials and Basic Forms and Shapes Merchant Wholesalers.
424690	Other Chemical and Allied Products Merchant Wholesalers.
424910	Farm Supplies Merchant Wholesalers.
441310	Automotive Parts and Accessories Stores.
443141	Household Appliance Stores.
443142	Electronics Stores.
444130	Hardware Stores.
446191	Food (Health) Supplement Stores.
452311	Warehouse Clubs and Supercenters.
453998	All Other Miscellaneous Store Retailers (except Tobacco Stores).
454110	Electronic Shopping and Mail-Order Houses.
481111	Scheduled Passenger Air Transportation.
482111	Line-Haul Railroads.
488510	Freight Transportation Arrangement.
493110	General Warehousing and Storage.

TABLE 1—NAICS CLASSIFICATION OF POTENTIALLY AFFECTED ENTITIES—Continued

NAICS code	NAICS industry description
522293	International Trade Financing.
523130	Commodity Contracts Dealing.
531110	Lessors of Residential Buildings and Dwellings.
531120	Lessors of Nonresidential Buildings (except Miniwarehouses).
532420	Office Machinery and Equipment Rental and Leasing.
541330	Engineering Services.
541519	Other Computer Related Services.
541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology).
561210	Facilities Support Services.
561910	Packaging and Labeling Services.
561990	All Other Support Services.
562920	Recovery and Reclamation.
722511	Full-Service Restaurants.
811219	Other Electronic and Precision Equipment Repair and Maintenance.
811412	Appliance Repair and Maintenance.
922160*	Fire Protection.

* Codes marked with an asterisk may apply to sectors that receive application-specific allowances under the AIM Act.

This table is not intended to be exhaustive, but rather provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this section could also be affected. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the AIM Act, and what are its main areas of focus?

On December 27, 2020, the AIM Act was enacted as section 103 in Division S, Innovation for the Environment, of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260).[2] The AIM Act directs EPA to address HFCs by providing new authorities in three main areas: To phase down the production and consumption of listed HFCs, manage these HFCs and their substitutes, and facilitate the transition to next-generation technologies by restricting use of these HFCs in the sector or subsectors in which they are used. This rulemaking focuses on the first area—the phasedown of the production and consumption of HFCs. EPA anticipates that there will be future rulemakings including those related to the latter two main areas, and therefore EPA is only accepting comment on the first area in this proposed rulemaking.

Subsection (e) of the AIM Act gives EPA authority to phase down the production and consumption of listed HFCs through an allowance allocation and trading program. The Act uses the term ''produce'' to mean ''the manufacture [3] of a regulated substance from a raw material or feedstock chemical,'' but excludes from the definition destruction of HFCs using approved technologies; reclamation, reuse, or recycling of HFCs; and HFCs for transformation.[4] The Act uses the term ''consumption'' to refer to the amount of HFCs produced in and imported to the United States, subtracting the amount exported.

The Act lists 18 saturated HFCs, and by reference any of their isomers not so listed, that are covered by the statute's provisions, referred to as ''regulated substances'' under the Act. Congress also assigned an ''exchange value'' [5] [6] to each regulated substance (along with other chemicals that are used to calculate the baseline). The table in subsection (c)(1), reproduced here in Table 2, lists the 18 regulated substances and their exchange values.

TABLE 2—LIST OF REGULATED SUBSTANCES AND THEIR EXCHANGE VALUES

Chemical name	Common name	Exchange value
CHF_2CHF_2	HFC–134	1,100
CH_2FCF_3	HFC–134a	1,430
CH_2FCHF_2	HFC–143	353
$CHF_2CH_2CF_3$	HFC–245fa	1,030
$CF_3CH_2CF_2CH_3$	HFC–365mfc	794
CF_3CHFCF_3	HFC–227ea	3,220
$CH_2FCF_2CF_3$	HFC–236cb	1,340
CHF_2CHFCF_3	HFC–236ea	1,370
$CF_3CH_2CF_3$	HFC–236fa	9,810
$CH_2FCF_2CHF_2$	HFC–245ca	693
$CF_3CHFCHFCF_2CF_3$	HFC–43–10mee	1,640
CH_2F_2	HFC–32	675
CHF_2CF_3	HFC–125	3,500
CH_3CF_3	HFC–143a	4,470
CH_3F	HFC–41	92
CH_2FCH_2F	HFC–152	53
CH_3CHF_2	HFC–152a	124
CHF_3	HFC–23	14,800

The AIM Act requires EPA to phase down the consumption and production of the statutorily listed HFCs on an exchange value-weighted basis according to the schedule stated in (e)(2)(C) as outlined in Table 3, beginning on January 1 of each year.

[2] EPA is proposing to interpret the phrase ''under this section'' in the AIM Act to refer to section 103 of the Consolidated Appropriations Act, 2021, and thus to mean ''under the AIM Act.'' This approach would be consistent with the language included in the Act, such as subsection (a) which states that ''[t]his section may be cited as American Innovation and Manufacturing Act of 2020.''

[3] While the AIM Act and the proposed definition in this rule use the term ''manufacture'' in defining the term ''produce,'' in implementing EPA's CAA Title VI programs the agency has historically used the term ''production'' when referring to the manufacture of chemicals and ''manufacture'' when referring to the manufacture of equipment. EPA intends to continue using this framing when describing production of chemicals and manufacture of equipment under the AIM Act to help distinguish between the two activities.

[4] The AIM Act uses the phrase ''a regulated substance that is used and entirely consumed (except for trace quantities) in the manufacture of another chemical'' instead of ''transformation'' in this definition. The quoted phrase is the definition used in Part 82 for the term ''transform.'' The AIM Act subsequently uses the terms ''transformation'' and ''use as a feedstock'' interchangeably. These two terms are intended to have the same meaning and are also used interchangeably in this proposal.

[5] EPA has determined that the exchange values included in subsection (c) of the AIM Act are identical to the global warming potentials (GWPs) included in IPCC (2007). EPA uses the terms ''global warming potential'' and ''exchange value'' interchangeably in this proposal.

[6] IPCC (2007): Solomon, S., D. Qin, M. Manning, R.B. Alley, T. Berntsen, N.L. Bindoff, Z. Chen, A. Chidthaisong, J.M. Gregory, G.C. Hegerl, M. Heimann, B. Hewitson, B.J. Hoskins, F. Joos, J. Jouzel, V. Kattsov, U. Lohmann, T. Matsuno, M. Molina, N. Nicholls, J. Overpeck, G. Raga, V. Ramaswamy, J. Ren, M. Rusticucci, R. Somerville, T.F. Stocker, P. Whetton, R.A. Wood and D. Wratt, 2007: Technical Summary. In: Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA *https://www.ipcc.ch/report/ar4/wg1*.

TABLE 3—PHASEDOWN SCHEDULE

Date	Percentage of production baseline	Percentage of consumption baseline
2020–2023	90	90
2024–2028	60	60
2029–2033	30	30
2034–2035	20	20
2036 and thereafter	15	15

The AIM Act requires that the EPA Administrator ensure the annual quantity of all regulated substances produced or consumed [7] in the United States does not exceed the applicable percentage listed for the production or consumption baseline.

In order to execute this statutory directive, EPA must determine both a production and consumption baseline from which the yearly targets are calculated. The AIM Act provides formulas for how to set a baseline. The equations are composed of an HFC component, a hydrochlorofluorocarbon (HCFC) component, and a chlorofluorocarbon (CFC) component. Specifically, EPA is directed to calculate the production baseline by adding: (i) The average annual quantity of all regulated substances produced in the United States from January 1, 2011, through December 31, 2013, and (ii) 15 percent of the production level of HCFCs in calendar year 1989, and (iii) 0.42 percent of the production level of CFCs in calendar year 1989.

EPA is directed to calculate the consumption baseline by adding: (i) The average annual quantity of all regulated substances consumed in the United States from January 1, 2011, through December 31, 2013, and (ii) 15 percent of the consumption level of HCFCs in calendar year 1989, and (iii) 0.42 percent of the consumption level of CFCs in calendar year 1989. To implement the directive that the production and consumption of regulated substances in the United States does not exceed the statutory targets, the AIM Act in subsection (e)(3) requires EPA to issue regulations within 270 days of the Act's enactment establishing an allowance allocation and trading program to phase down the production and consumption of the listed HFCs. These allowances are limited authorizations for the production or consumption of regulated substances. Subsection (e)(2)(D) directs EPA to ''determine the quantity of allowances for the production and consumption of regulated substances that may be used for the following calendar year'' by October 1 each year. Subsection (e)(2) of the Act has a general prohibition that no person [8] shall produce or consume a quantity of regulated substances in the United States without a corresponding quantity of allowances. Also within 270 days, EPA is directed in subsection (g) to establish regulations governing the transfer of production and consumption of allowances. Subsection (e)(2)(A) also provides that no person shall hold, use, or transfer an allocated production or consumption allowance except in accordance with the transfer regulations. Under subsection (g), the transfer regulations are to use the applicable exchange values and ''ensure that the transfers . . . will result in greater total reductions'' in production and consumption ''than would occur during the year in the absence of the transfers.''

Subsection (e)(4)(B)(iv) of the Act requires EPA to allocate allowances sufficient to meet the full quantity needed for production and consumption for six specific applications for five years following enactment. EPA is to determine the necessary allowance amount for these applications ''based on projected, current, and historical trends.'' The six statutorily listed applications are: Propellants in metered-dose inhalers; defense sprays (*e.g.,* bear spray); structural composite preformed polyurethane foam for marine use and trailer use; etching of semiconductor material or wafers and the cleaning of chemical vapor deposition (CVD) chambers within the semiconductor manufacturing sector; mission-critical military end uses; and on board aerospace fire suppression. The allowances EPA allocates for these applications are for the ''exclusive use'' in one of the six applications.

Subsection (j) of the AIM Act speaks to international cooperation. Of particular relevance to this rulemaking, subsection (j)(4) requires EPA to promulgate a rule by December 27, 2021, to carry out the subsection. The AIM Act outlines several restrictions and requirements governing international transfers of production allowances in subsections (j)(1) and (j)(2) and also provides some discretionary authority to EPA in (j)(3) regarding the effect of such transfers on production limits.

In subsection (k)(1)(A), the AIM Act provides EPA with the authority to promulgate necessary regulations to carry out EPA's functions under the Act, including its obligations to ensure that the Act's requirements are satisfied. The Act also states that Clean Air Act (CAA) sections 113, 114, 304, and 307 apply to the AIM Act and any regulations EPA promulgates under the AIM Act as though the AIM Act were part of Title VI of the CAA. Accordingly, this rulemaking is subject to CAA section 307(d) (42 U.S.C. 7607(d)(1)(I)) (CAA section 307(d) applies to ''promulgation or revision of regulations under subchapter VI of this chapter (relating to stratosphere and ozone protection)'').

In addition, although there is limited legislative history available on the AIM Act, Congress is generally presumed to legislate with an awareness of the existing law that is pertinent to enacted legislation. Given the similarities in the text, structure, and function of the production and consumption phasedown provisions of the AIM Act and EPA's program phasing out ozone-depleting substances (ODS) under Title VI of the CAA,[9] EPA finds it reasonable to build on its experience phasing out ODS when developing the AIM Act's HFC allowance allocation and trading program, while also recognizing that there are areas where the AIM Act's requirements diverge from the text and framework of Title VI of the CAA. For example, EPA uses the recordkeeping and reporting provisions that the Agency has refined over time in the ODS context as the starting point for the proposed recordkeeping and reporting requirements in this rule. There are many instances where the definitions and structure are either identical or have only slight differences. For example, the definitions of ''import'' in the AIM Act and section 601 of the CAA are materially similar though they have slightly different phrasing. In at least some instances, Congress adopted language in the AIM Act that matches EPA's implementation approach for

[7] In the context of allocating and expending allowances, EPA interprets the word ''consume'' as the verb form of the defined term ''consumption.'' For example, subsection (e)(2)(A), states the phasedown consumption prohibition as ''no person shall . . . *consume* a quantity of a regulated substance without a corresponding quantity of consumption allowances.'' While a common usage of the word ''consume'' means ''use,'' EPA does not believe that Congress intended for everyone who charges an appliance or fills an aerosol can with an HFC to expend allowances.

[8] Under the Act's term, this general prohibition applies to any ''person.'' Because EPA anticipates that the parties that produce or consume HFCs—and that would thus be subject to the Act's production and consumption controls—are companies or other entities, we frequently use those terms to refer to regulated parties in this proposal. Using this shorthand, however, does not alter the applicability of the Act's requirements and prohibitions.

[9] EPA's well-established regulatory program at 40 CFR part 82, subpart A, provides for the allocation of ODS production and consumption allowances, implementing the ODS production and consumption controls of Title VI of the CAA and facilitating an orderly phaseout.

ODS production and consumption controls under CAA Title VI as reflected in 40 CFR part 82, subpart A. For example, the definition for ''produce'' in the AIM Act mirrors the parallel definition in CAA section 601 in many respects, but in contrast to the CAA definition, the AIM Act explicitly excludes the destruction of regulated substances using technologies approved by the Administrator from being counted in production. While the CAA definition does not explicitly exclude destruction from production, EPA's regulatory definition for ''production'' in 40 CFR 82.3 does exclude destruction from being counted as production. Throughout this proposed rulemaking, EPA explains how the Agency is relying on and building from its experience implementing the ODS phaseout provisions in the CAA and its implementing regulations where such considerations are relevant to creating the framework structure for the AIM Act's required HFC allowance allocation and trading program. Given EPA's extensive experience phasing out ODS under similar CAA authority for a regulated community that bears marked resemblance to entities that could be impacted by the rulemaking, reliance on EPA's expertise will help achieve the goals outlined by Congress in implementing the AIM Act.

C. What are HFCs?

HFCs are intentionally produced [10] fluorinated chemicals that have no known natural sources. HFCs are used in the same applications that ODS have historically been used in, such as refrigeration and air conditioning, foam blowing agents, solvents, aerosols, and fire suppression. HFCs are potent greenhouse gases (GHGs) with 100-year global warming potentials (GWPs) (a measure of the relative climatic impact of a GHG) that can be hundreds to thousands of times more potent than carbon dioxide (CO_2).

Although HFCs represent a small fraction (~1.5 percent) of the current total GWP-weighted amount of GHG emissions,[11] their use is growing worldwide due to the global phaseout of ODS under the *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol), and the increasing use of refrigeration and air-conditioning equipment globally. HFC emissions had previously been projected to increase substantially over the next several decades, but global adherence to the Kigali Amendment to the Montreal Protocol (Kigali Amendment) would substantially reduce future emissions, leading to a peaking of HFC emissions before 2040.[12]

Atmospheric observations of most currently measured HFCs confirm their amounts are increasing in the global atmosphere at accelerating rates. Total emissions of HFCs increased by 23 percent from 2012 to 2016 and the four most abundant HFCs in the atmosphere, in GWP-weighted terms, are HFC–134a, HFC–125, HFC–23, and HFC–143a.[13]

In 2016, HFCs accounted for a radiative forcing of 0.025 W/m^2, not including additional forcing from HFC–23 of 0.005 W/m^2: this is a 36 percent increase in total HFC forcing relative to 2012. This radiative forcing was projected to increase an order of magnitude to 0.25 W/m^2 by 2050, not including additional forcing from HFC–23. In 2016, in Kigali, Rwanda, countries agreed to adopt an amendment to the Montreal Protocol, known as the Kigali Amendment, which outlines a global phasedown of the production and consumption of HFCs. If the Kigali Amendment were to be fully implemented, it is expected to reduce the future radiative forcing due to HFCs (excluding HFC–23) to 0.13 W/m^2 in 2050, a reduction of about 50 percent compared to the radiative forcing projected in the baseline scenario of uncontrolled HFCs.[14]

There are hundreds of possible HFC compounds. The 18 HFCs listed as regulated substances by the AIM Act are some of the most commonly used HFCs and have high impacts as measured by the quantity emitted multiplied by their respective GWPs. These 18 HFCs are all saturated, meaning they have only single bonds between their atoms and therefore have longer atmospheric lifetimes.

In the United States, HFCs are primarily used in refrigeration and air-conditioning equipment in homes, commercial buildings, and industrial operations (~75 percent of total HFC use in 2018) and in air conditioning in vehicles and refrigerated transport (~8 percent). Smaller amounts are used in foam products (~11 percent), aerosols (~4 percent), fire protection systems (~1 percent) and solvents (~1 percent).[15]

EPA considered the emissions reductions from an HFC phasedown in the United States and presented the results in the 2016 Biennial Report to the United Nations Framework Climate Change Convention (UNFCCC).[16] At the time, EPA provided a reductions estimate of 113 million metric tons of carbon dioxide equivalent ($MMTCO_2e$) of reduced U.S. HFC emissions associated with the implementation of an amendment proposal submitted in 2015 by the United States, Canada, and Mexico that was under consideration by the parties to the Montreal Protocol and was very similar to the Kigali Amendment. While the Kigali Amendment ultimately adopted under the Montreal Protocol has certain marked differences from the AIM Act, given the two documents have a nearly identical list of HFCs to be phased down following the same schedule, the 2016 Biennial Report provides useful information. The Biennial Report included estimates for HFC actions under CAA section 612 modeled in the *2016 Current Measures.* HFC emissions reductions through additional measures in 2020 and 2025 relative to the *2016 Current Measures* scenario were presented under the *Additional Measures* scenario and included both options for continued action under the CAA and the implementation of an HFC phasedown in the United States, which is similar to the requirements of the AIM Act with an earlier start date.[17] The

[10] While the overwhelming majority of HFC production is intentional, EPA is aware that HFC–23 can be a byproduct associated with the production of other chemicals, including but not limited to HCFC–22.

[11] World Meteorological Organization (WMO), *Scientific Assessment of Ozone Depletion: 2018,* World Meteorological Organization, Global Ozone Research and Monitoring Project—Report No. 58, 67 pp., Geneva, Switzerland, 2018. *https://ozone.unep.org/sites/default/files/2019-05/SAP-2018-Assessment-report.pdf*

[12] Ibid

[13] Ibid.

[14] Ibid.

[15] Calculations based on EPA's Vintaging Model, which estimates the annual chemical emissions from industry sectors that historically used ODS, including refrigeration and air-conditioning, foam blowing agents, solvents, aerosols, and fire suppression. The model uses information on the market size and growth for each end use, as well as a history and projections of the market transition from ODS to alternatives. The model tracks emissions of annual ''vintages'' of new equipment that enter into operation by incorporating information on estimates of the quantity of equipment or products sold, serviced, and retired or converted each year, and the quantity of the compound required to manufacture, charge, and/or maintain the equipment. Additional information on these estimates is available in U.S. EPA, April 2016. EPA Report EPA–430–R–16–002. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2014. Available at *https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2014.*

[16] U.S. Department of State. *Second Biennial Report of the United States of America Under the United Nations Framework Convention on Climate Change.* Washington, DC, 2016. Web. 15 March 2021. *http://unfccc.int/national_reports/biennial_reports_and_iar/submitted_biennial_reports/items/7550.php*

[17] The ''Current Measures'' scenario in the Biennial Report included HFC reductions estimated under a final rule EPA issued on July 20, 2015, which, among, other things, changed listings for

Continued

emissions reductions for the *Additional Measures* were estimated to be 63 $MMTCO_2e$ in 2020 and 113 $MMTCO_2e$ in 2025.

D. How do HFCs affect public health and welfare?

Elevated concentrations of GHGs including HFCs have been warming the planet, leading to changes in the Earth's climate including changes in the frequency and intensity of heat waves, precipitation, and extreme weather events, rising seas, and retreating snow and ice. The changes taking place in the atmosphere as a result of the well-documented buildup of GHGs due to human activities are changing the climate at a pace and in a way that threatens human health, society, and the natural environment. While EPA does not need to make any particular scientific or factual findings in order to regulate HFCs under the AIM Act's phasedown provisions, in this section, EPA is providing some scientific background on climate change to offer additional context for this rulemaking and to help the public understand the environmental impacts of GHGs such as HFCs.

Extensive additional information on climate change is available in the scientific assessments and the EPA documents that are briefly described in this section, as well as in the technical and scientific information supporting them. One of those documents is EPA's 2009 Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the CAA (74 FR 66496, December 15, 2009).[18] In the 2009 Endangerment Finding, the Administrator found under section 202(a) of the CAA that elevated atmospheric concentrations of six key well-mixed GHGs—CO_2, methane (CH_4), nitrous oxide (N_2O), HFCs, perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6)—''may reasonably be anticipated to endanger the public health and welfare of current and future generations'' (74 FR 66523). The 2009 Endangerment Finding, together with the extensive scientific and technical evidence in the supporting record, documented that climate change caused by human emissions of GHGs (including HFCs) threatens the public health of the U.S. population. It explained that by raising average temperatures, climate change increases the likelihood of heat waves, which are associated with increased deaths and illnesses (74 FR 66497). While climate change also increases the likelihood of reductions in cold-related mortality, evidence indicates that the increases in heat mortality will be larger than the decreases in cold mortality in the United States (74 FR 66525). The 2009 Endangerment Finding further explained that compared with a future without climate change, climate change is expected to increase tropospheric ozone pollution over broad areas of the United States, including in the largest metropolitan areas with the worst tropospheric ozone problems, and thereby increase the risk of adverse effects on public health (74 FR 66525). Climate change is also expected to cause more intense hurricanes and more frequent and intense storms of other types and heavy precipitation, with impacts on other areas of public health, such as the potential for increased deaths, injuries, infectious and waterborne diseases, and stress-related disorders (74 FR 66525). Children, the elderly, and the poor are among the most vulnerable to these climate-related health effects (74 FR 66498).

The 2009 Endangerment Finding also documented, together with the extensive scientific and technical evidence in the supporting record, that climate change touches nearly every aspect of public welfare[19] in the United States with resulting economic costs, including: Changes in water supply and quality due to changes in drought and extreme rainfall events; increased risk of storm surge and flooding in coastal areas and land loss due to inundation; increases in peak electricity demand and risks to electricity infrastructure; and the potential for significant agricultural disruptions and crop failures (though offset to some extent by carbon fertilization). These impacts are also global and may exacerbate problems outside the United States that raise humanitarian, trade, and national security issues for the United States (74 FR 66530).

In 2016, the Administrator similarly issued Endangerment and Cause or Contribute Findings for greenhouse gas emissions from aircraft under section 231(a)(2)(A) of the CAA (81 FR 54422).[20] In the 2016 Endangerment Finding, the Administrator found that the body of scientific evidence amassed in the record for the 2009 Endangerment Finding compellingly supported a similar endangerment finding under CAA section 231(a)(2)(A), and also found that the science assessments released between the 2009 and the 2016 Findings ''strengthen and further support the judgment that GHGs in the atmosphere may reasonably be anticipated to endanger the public health and welfare of current and future generations'' (81 FR 54424).

Since the 2016 Endangerment Finding, the climate has continued to change, with new records being set for several climate indicators such as global average surface temperatures, greenhouse gas concentrations, and sea level rise. Additionally, major scientific assessments continue to be released that further improve our understanding of the climate system and the impacts that GHGs have on public health and welfare both for current and future generations. These updated observations and projections document the rapid rate of current and future climate change both globally and in the United States.[21] [22] [23] [24]

certain HFCs and blends from acceptable to unacceptable in various end uses in the aerosols, refrigeration and air conditioning, and foam blowing sectors. The ''Additional Measures'' scenario in the Biennial Report included additional actions, some of which were included in a final rule EPA issued on December 1, 2016, that EPA anticipated under a proposed amendment to the Montreal Protocol to phase down HFC production and consumption. Since the 2016 Biennial Report, after a challenge to the 2015 rule, the U.S. Court of Appeals for the D.C. Circuit (''the court'') issued a partial vacatur of the 2015 rule ''to the extent it requires manufacturers to replace HFCs with a substitute substance,'' and remanded the rule to EPA for further proceedings. Later, the court issued a similar decision on portions of the final rule issued December 1, 2016. *See Mexichem Fluor, Inc.* v. *EPA,* 866 F.3d 451, 462 (D.C. Cir. 2017); *see also Mexichem Fluor, Inc.* v. *EPA,* Judgment, Case No. 17–1024 (D.C. Cir., April 5, 2019), 760 Fed. Appx. 6 (Mem).

[18] In describing these 2009 Findings in this proposal, EPA is neither reopening nor revisiting them.

[19] The CAA states in section 302(h) that ''[a]ll language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.'' 42 U.S.C. 7602(h).

[20] In describing these 2016 Findings in this proposal, EPA is neither reopening nor revisiting them.

[21] USGCRP, 2018: *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II* [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, 1515 pp. doi: 10.7930/NCA4.2018. *https://nca2018.globalchange.gov.*

[22] Roy, J., P. Tschakert, H. Waisman, S. Abdul Halim, P. Antwi-Agyei, P. Dasgupta, B. Hayward, M. Kanninen, D. Liverman, C. Okereke, P.F. Pinho, K. Riahi, and A.G. Suarez Rodriguez, 2018: Sustainable Development, Poverty Eradication and Reducing Inequalities. In: *Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E.

II. What is the summary of this proposed action?

In this rulemaking, EPA is proposing to: Establish the HFC production and consumption baselines based on historical data; establish the allowance allocation program to phase down HFC production and consumption; determine an initial approach to allocating calendar-year allowances and allowing for the transfer of those allowances; establish provisions for the international transfer of allowances; establish recordkeeping and reporting requirements; release certain data to provide transparency and support implementation of the program; and, address certain other elements related to the effective implementation of the AIM Act.

The AIM Act directs EPA to issue a final rule by September 23, 2021, to provide for the phasedown of the production and consumption of HFCs through an allowance allocation and trading program. This rulemaking, when finalized, is intended to fulfill that statutory directive. Additionally, under the AIM Act, by October 1 of each calendar year, EPA must calculate and determine the quantity of production and consumption allowances for the following year. Thus, by October 1, 2021, EPA must calculate and determine the quantity of production and consumption allowances for 2022. EPA intends to issue allowances for the 2022 calendar year no later than October 1, 2021, using the procedure established through this rulemaking. EPA proposes that this be a single year allocation and intends to issue individual allowances for the 2023 calendar year no later than October 1, 2022, using the procedure established through this rulemaking. The AIM Act further directs EPA to promulgate by September 23, 2021, a regulation governing the transfer of production and consumption allowances, and EPA is herein proposing regulatory requirements related to this statutory directive. The AIM Act also directs EPA to issue by December 27, 2021, regulations related to the international transfer of production allowances. EPA is herein proposing regulatory requirements related to this statutory directive as well.

EPA is proposing to establish a regulatory framework under the statutory timelines required by the AIM Act, but also acknowledges at the outset that we intend to revisit how to allocate allowances for 2024 and beyond and further build out aspects of the program. To accurately reflect that intention in this rule, EPA is proposing that the initial approach for determining allowance allocations that EPA would establish in this framework rule be time-limited. This would necessitate completion of another notice-and-comment rulemaking prior to October 1, 2023, to issue allowances for calendar year 2024 and later years. As a result, section XI of this preamble, which includes an ANPRM, explains ideas the Agency is considering for a separate future rulemaking that will address the criteria/framework for issuing allowances for 2024 and later years. Given high baseline health risks related to air toxics in communities near facilities that produce HFCs, EPA is seeking input in sections III and XI (the ANPRM) on whether there are potential environmental justice concerns that could be affected by the phasedown of HFCs, allowance transfers, and/or the production of substitutes. EPA is also seeking input on ways to ensure that these elevated risks not be further exacerbated by changes in the use patterns for production of HFCs or their substitutes. The Agency is soliciting comments on the concepts introduced in the ANPRM but is not proposing any action associated with those elements in this rulemaking. Instead, any comments received on elements of the ANPRM will be taken under advisement by the Agency and incorporated, as appropriate, in future and separate rulemakings with an opportunity for public comment prior to finalization of any provisions.

EPA estimates that in 2022 the annual net benefits are $2.6 billion, reflecting compliance costs of $200 million and social benefits of $2.8 billion. In 2036, when the final phasedown step is reached at 15 percent of the statutorily defined HFC baseline, the estimated annual net benefits are $17.9 billion. The present value of cumulative net benefits evaluated from 2022 through 2050 is $283.9 billion at a three percent discount rate or $278.6 billion at a seven percent discount rate.[25] The present value of net benefits are calculated over the 29-year period from 2022–2050 to account for the years that emissions will be reduced following the consumption reductions from 2022–2036. Over the 15-year period of the phasedown of HFCs, at a three percent discount rate the present value of cumulative compliance costs are negative $5 billion, or $5 billion in savings, the present value of cumulative social benefits is $103.6 billion, and the present value of cumulative net benefits is $108.2 billion. Evaluated at a seven percent discount rate, the present value of cumulative compliance costs are negative $3 billion, or $3 billion in savings, and the present value of cumulative net benefits is $106.6 billion. Climate benefits are based on changes (reductions) in HFC emissions and are calculated using four different estimates of the social cost of HFCs (SC–HFCs) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; and 95th percentile at 3 percent discount rate). The benefits presented in this paragraph are the benefits associated with the average SC–HFC at a 3 percent discount rate, but the Agency does not have a single central SC–HFC point estimate. The Interagency Working Group on the Social Cost of Greenhouse Gases (IWG) emphasized the importance and value of considering the benefits calculated using all four estimates.

As summarized further in section X of the preamble and described more fully in the Regulatory Impact Analysis (RIA) for this proposed rulemaking, EPA's analysis indicates the principal costs (or savings) result from industry transitioning to substitute chemicals and technology. The principal benefits result from a decrease in emissions of HFCs into the atmosphere and the corresponding effects on global warming. The benefits are monetized by using the Social Cost of HFCs (SC–HFCs). SC–HFCs is estimated using a method consistent with the method used to estimate the Social Cost of Greenhouse Gases (SC–GHGs). An alternative method was also considered which estimates SC–HFCs by using the GWP (or exchange value) of HFCs and scaling to the known social cost of another GHG, *e.g.,* CO_2, CH_4, or N_2O.

III. How is EPA considering environmental justice?

Executive Order 12898 (59 FR 7629; February 16, 1994) and Executive Order 14008 (86 FR 7619; January 27, 2021) establish federal executive policy on

Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)]. In Press. *https://www.ipcc.ch/sr15/chapter/chapter-5.*

[23] National Academies of Sciences, Engineering, and Medicine. 2019. *Climate Change and Ecosystems.* Washington, DC: The National Academies Press. *https://doi.org/10.17226/25504.*

[24] NOAA National Centers for Environmental Information, State of the Climate: Global Climate Report for Annual 2020, published online January 2021, retrieved on February 10, 2021, from *https://www.ncdc.noaa.gov/sotc/global/202013.*

[25] All values for costs and benefits in this section are given in 2020 dollars and are calculated by discounting future costs and benefits to 2022 using a three percent discount rate. Calculations using other discount rates and discussion of the impact of the discount rate are found in the Regulatory Impact Analysis.

environmental justice. Executive Order 12898's main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.[26] Meaningful involvement means that: (1) Potentially affected populations have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; (2) the public's contribution can influence the regulatory Agency's decision; (3) the concerns of all participants involved will be considered in the decision-making process; and (4) the rule-writers and decision-makers seek out and facilitate the involvement of those potentially affected.[27] The term ''disproportionate impacts'' refers to differences in impacts or risks that are extensive enough that they may merit Agency action. In general, the determination of whether there is a disproportionate impact that may merit Agency action is ultimately a policy judgment which, while informed by analysis, is the responsibility of the decision-maker. The terms ''difference'' or ''differential'' indicate an analytically discernible distinction in impacts or risks across population groups. It is the role of the analyst to assess and present differences in anticipated impacts across population groups of concern for both the baseline and proposed regulatory options, using the best available information (both quantitative and qualitative) to inform the decision-maker and the public.[28]

A regulatory action may involve potential environmental justice concerns if it could: (1) Create new disproportionate impacts on minority populations, low-income populations, and/or indigenous peoples; (2) exacerbate existing disproportionate impacts on minority populations, low-income populations, and/or indigenous peoples; or (3) present opportunities to address existing disproportionate impacts on minority populations, low-income populations, and/or indigenous peoples through the action under development.

Executive Order 14008 calls on agencies to make achieving environmental justice part of their missions ''by developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts.'' Executive Order 14008 further declares a policy ''to secure environmental justice and spur economic opportunity for disadvantaged communities that have been historically marginalized and overburdened by pollution and under-investment in housing, transportation, water and wastewater infrastructure, and health care.'' In addition, the Presidential Memorandum on Modernizing Regulatory Review calls for procedures to ''take into account the distributional consequences of regulations, including as part of a quantitative or qualitative analysis of the costs and benefits of regulations, to ensure that regulatory initiatives appropriately benefit, and do not inappropriately burden disadvantaged, vulnerable, or marginalized communities.'' EPA also released its June 2016 ''Technical Guidance for Assessing Environmental Justice in Regulatory Analysis'' (2016 Technical Guidance) to provide recommendations that encourage analysts to conduct the highest quality analysis feasible, recognizing that data limitations, time and resource constraints, and analytic challenges will vary by media and circumstance.

As described elsewhere in this notice, this rule proposes to establish the framework for, and begin, the United States' phasedown of HFCs, which is projected to achieve significant benefits by reducing production and consumption of certain chemicals with high GWPs. Section I.D. of this proposal briefly summarizes the public health and welfare effects of GHG emissions (including HFCs) as documented in EPA's 2009 and 2016 Endangerment Findings. As part of these Endangerment Findings, the Administrator considered climate change risks to minority populations and low-income populations, finding that certain parts of the population may be especially vulnerable based on their characteristics or circumstances, including the poor, the elderly, the very young, those already in poor health, the disabled, those living alone, and/or indigenous populations dependent on one or limited resources due to factors including but not limited to geography, access, and mobility.

More recent assessment reports by the U.S. Global Change Research Program (USGCRP), the Intergovernmental Panel on Climate Change (IPCC), and the National Research Council (NRC) of the National Academies demonstrate that the potential impacts of climate change raise environmental justice issues. These reports concluded that poorer communities can be especially vulnerable to climate change impacts because they tend to have more limited adaptive capacities and are more dependent on climate-sensitive resources such as local water and food supplies. In corollary, some communities of color, specifically populations defined jointly by both ethnic/racial characteristics and geographic location, may be uniquely vulnerable to climate change health impacts in the United States. Native American tribal communities possess unique vulnerabilities to climate change, particularly those impacted by degradation of natural and cultural resources within established reservation boundaries and threats to traditional subsistence lifestyles. Tribal communities whose health, economic well-being, and cultural traditions that depend upon the natural environment will likely be affected by the degradation of ecosystem goods and services associated with climate change. The Technical Support Document for the 2009 Endangerment Finding also specifically noted that Southwest native cultures are especially vulnerable to water quality and availability impacts, and Native Alaskan communities are already experiencing disruptive impacts, including coastal erosion and shifts in the range or abundance of wild species crucial to their livelihoods and well-being.

As alluded to elsewhere in this proposal, and detailed in the RIA, which can be found in the docket for this rulemaking, the provisions in this proposed rulemaking as part of the phasedown of HFCs in the United States

[26] See, *e.g.,* ''Environmental Justice.'' *Epa.gov,* Environmental Protection Agency, 4 Mar. 2021, *www.epa.gov/environmentaljustice.*

[27] The criteria for meaningful involvement are contained in EPA's May 2015 guidance document ''Guidance on Considering Environmental Justice During the Development of an Action.'' *Epa.gov,* Environmental Protection Agency, 17 Feb. 2017, *www.epa.gov/environmentaljustice/guidance-considering-environmental-justice-during-development-action.*

[28] The definitions and criteria for ''disproportionate impacts,'' ''difference,'' and ''differential'' are contained in EPA's June 2016 guidance document ''Technical Guidance for Assessing Environmental Justice in Regulatory Analysis.'' *Epa.gov,* Environmental Protection Agency, *https://www.epa.gov/sites/production/files/2016-06/documents/ejtg_5_6_16_v5.1.pdf.*

would, if finalized, achieve significant benefits associated with reducing climate change. However, as described in the RIA and summarized below, there is significant uncertainty about how the phasedown of HFC production, the issuance of allowances, and market trends independent of this proposed rulemaking could affect production of HFCs and HFC substitutes—and associated air pollution emissions—at individual facilities, particularly in communities that are disproportionately burdened by air pollution. EPA is soliciting comment and/or data or other information in section XI that could help reduce the potential for inadvertent or unexpected distributional effects from this program, including the potential for environmental justice concerns due to the release of toxic chemicals that are feedstocks, catalysts, or byproducts in the production of HFCs or HFC substitutes.

More specifically, EPA is seeking comment on whether changes in emissions, particularly in communities that are already disproportionately affected by air pollution, could occur as the result of the HFC phasedown, the associated ability to transfer allowances, or other unrelated changes in the market. EPA also seeks comment on whether there are remedies that could be applied as part of the design of the program in the event the Agency determines such unintended distributional impacts exist. In addition, EPA solicits comment on whether other regulatory authorities would be more appropriate to address any inadvertent or unexpected distributional effects that are identified, for example, if a producer obtained allowances in sufficient quantities to grow HFC production, which could potentially increase air emissions at that location. In such instances, where other authorities may be a more appropriate avenue, EPA expects that effects would be addressed through that avenue outside of AIM Act regulatory processes under timelines appropriate to those other programs.

EPA intends to develop another rule before allowances are allocated for calendar year 2024 that may alter the framework and procedure for issuing allowance allocations and could possibly address any identified environmental justice concerns past the year 2023. The HFC phasedown schedule prescribed by Congress may also reduce the potential for a facility to increase emissions above current levels for a prolonged period. EPA notes that this rule affects a small number of entities through a distinct allocation program, and that these entities manufacture a wide variety of products and are subject to a number of distinct market and regulatory forces independent of this HFC program. As such, the issues identified here and possible remedies may not be broadly applicable or practicable in other rulemakings.

A reasonable starting point for assessing the need for a more detailed environmental justice analysis is to review the available evidence from the published literature and from community input on what factors may make population groups of concern more vulnerable to adverse effects (*e.g.,* cumulative exposure from multiple stressors), including but not limited to the 2009 and 2016 Endangerment Findings and the reports from USGCRP, IPCC, and NRC. It is also important to evaluate the data and methods available for conducting an environmental justice analysis.

EPA's 2016 Technical Guidance does not prescribe or recommend a specific approach or methodology for conducting an environmental justice analysis, though a key consideration is consistency with the assumptions underlying other parts of the regulatory analysis when evaluating the baseline and regulatory options. Where applicable and practicable, the Agency's Regulatory Impact Analysis, available in the docket for this rulemaking, examines certain metrics for an environmental justice analysis comprising more than just climate change effects, including: The proximity of companies receiving allowances to minority populations, low-income populations, and/or indigenous peoples; the number of companies receiving allowances that may be impacting population groups of concern; the nature, amounts, and location of regulated HFC production that may impact population groups of concern; and potential exposure pathways associated with the production of the regulated HFCs or with chemicals used as feedstocks, catalysts, or byproducts of HFC production unique to particular populations (*e.g.,* workers). The environmental justice analysis is described in the RIA and is based on public data from the Toxics Release Inventory (TRI), GHGRP, EJSCREEN (an environmental justice mapping and screening tool developed by EPA), Enforcement and Compliance History Online (ECHO), and Census data. The analysis of potential environmental justice concerns focuses mainly on characterizing baseline emissions of air toxics that are also associated with chemical feedstock use for HFC production. As noted in the RIA, there is uncertainty around the role that HFC production plays in emissions of these air toxics. In addition, EPA conducted a proximity analysis to examine community characteristics within one and three miles of these facilities. The relatively small number of facilities affected by the proposed rule has enabled EPA to assemble a uniquely granular assessment of the characteristics of these facilities and the communities where they are located.

Overall, this rule would reduce GHG emissions, which would benefit populations that may be especially vulnerable to damages associated with climate change. However, the manner in which producers transition from high-GWP HFCs could drive changes in future risk for communities living near facilities that produce HFCs, to the extent the use of toxic feedstocks, byproducts, or catalysts changes and those chemicals are released into the environment with adverse local effects. The environmental justice analysis, which examines racial and economic demographic and health risk information, finds heterogeneity in community characteristics around individual facilities. The analysis shows that the total baseline cancer risk and total respiratory risk from air toxics (not all of which stem from HFC production) varies, but is generally higher, and in some cases much higher, within one to three miles of a HFC production facility. The analysis also finds that higher percentages of low income and Black or African American individuals live near several HFC production facilities compared with the appropriate national and state level average. It is not clear the extent to which these baseline risks are directly related to HFC production, but some HFC production feedstocks, catalysts, and byproducts are toxic, particularly with respect to potential carcinogenicity (*e.g.,* carbon tetrachloride, tetrachloroethylene, trichloroethylene, etc.). Additionally, some HFC alternatives, *e.g.,* HFOs, use the same chemicals as feedstocks in their production or released as byproducts, potentially raising concerns about local exposure to them. However, given limited information regarding where substitutes will be produced and what other factors might affect production and emissions at those locations, it is unclear to what extent this proposed rule would affect baseline risks from hazardous air toxics for communities living near HFC production facilities. EPA requests commenters provide data or other information to help better characterize these changes and their implications for

nearby communities for analysis of the final rule.

As discussed, EPA's preliminary analysis of potential environmental justice concerns is contained in the RIA, which is available in the docket, as well as information on non-production releases (as defined by TRI), water releases, and off-site disposal for chemicals used in HFC production. EPA seeks input on the environmental justice analysis contained in the RIA, as well as broader input on other health and environmental risks the Agency should assess. To support the development of comments, EPA is seeking data or analysis to identify whether it is reasonable to expect net increases in emissions; and if so how we might isolate the impacts of this program (*i.e.,* effects resulting from the phasedown itself, the trading of production allowances, or some other factor) that would enable the Agency to conduct a more nuanced analysis of changes in releases associated with chemical feedstocks and byproducts for HFC substitutes, given the inherent uncertainty regarding where, and in what quantities, substitutes will be produced. EPA is also seeking comment on whether there are other regulatory tools better suited than adjustments to the HFC program design to address potential increases in emissions in non-HFC feedstocks and byproducts observed at facilities subject to the Congressionally mandated phasedown of HFCs under the AIM Act, if any. EPA is also soliciting comment on key assumptions underlying the environmental justice analysis. In addition to the questions asked in this section III, EPA is also soliciting input in section XI on what mechanisms the Agency could consider to prevent or mitigate any increase in exposure to air toxics emissions from facilities located near high risk communities, including from the proposed provisions relating to transfer of allowances. EPA invites readers to refer to section XI for that discussion.

IV. What definitions are proposed to implement the AIM Act?

EPA is proposing to establish definitions that would implement the framework for the AIM Act generally and the allowance allocation and trading program specifically. Where possible, EPA is proposing to adopt definitions as written in 40 CFR part 82, subpart A, with modifications if needed to conform to differences in the AIM Act.

A. What definitions is EPA proposing to adopt from 40 CFR 82.3 without substantive change?

EPA is proposing to adopt definitions for the following defined terms as used in 40 CFR 82.3 with only those changes that are needed to conform with the AIM Act. These defined terms are used in the same or substantially similar manner as in the ODS phaseout under the CAA. In many instances, the only proposed change to the definition of a term is to replace ''controlled substances'' with ''regulated substances,'' as the latter is the term used to describe HFCs in the AIM Act. In other instances, EPA is not including citations to 40 CFR part 82, subpart A, that were found in those definitions but that are not directly relevant for implementing the AIM Act. Because there is significant overlap between the regulated community of the AIM Act and those who partook in the ODS phaseout under Title VI of the CAA, maintaining the same definitions, where consistent with AIM Act requirements, would provide certainty to those that have been using and are familiar with these terms from the ODS phaseout experience. EPA welcomes comment on whether any of these terms should be updated or modified.

These terms are: Administrator, Central Data Exchange, Consumption, Consumption allowances, Export, Exporter, Foreign country, Heel, Importer, Individual shipment, Non-objection notice, Person, Production allowances, Source facility, Transform, Transhipment, and Used regulated substances.

B. What definitions is EPA proposing to adopt from 40 CFR 82.3 with substantive change?

EPA is proposing to adopt the definitions for the following defined terms as written in 40 CFR 82.3 with some changes necessary to align the definition with the AIM Act beyond those described in the previous section. The terms are: Confer, Destruction, Facility, Import, Metered Dose Inhaler (MDI), and Reclaim.

Destruction. EPA is proposing to define destruction as ''the expiration of a regulated substance to the destruction and removal efficiency actually achieved. Such destruction might result in a commercially useful end product, but such usefulness would be secondary to the act of destruction.'' Inclusion of the second sentence clarifies that the listed technologies in proposed section 84.29 that are conversion technologies are included within the proposed definition for destruction and are not considered transformation. Unlike the definition for this term in 40 CFR part 82, subpart A, EPA is proposing not to distinguish between destruction and completely destroy. The Agency expects that all destruction of regulated substances occurs at 98 percent or greater, which was the definition for ''completely destroy.'' EPA is also proposing that the new definition not include a reference to the Parties. Lastly, in place of the part 82 list of approved technologies, EPA is proposing to list the technologies approved by the Administrator in § 84.29.

Confer. EPA is proposing to define this term as ''to shift unexpended application-specific allowances obtained in accordance with subsection (e)(4)(B)(iv) of the AIM Act from the end user allocated such allowances to another entity for the production or import of a regulated substance for use by the end user.'' This proposed term is intended to distinguish conferring an allowance, which is not subject to an offset, from an allowance transfer, which is subject to an offset.

Facility. EPA is proposing to define this term in 40 CFR part 84 to mean ''one or more production lines at the same location owned by or under common control of the same person.'' This is similar to the definition of ''plant'' in 40 CFR part 82. This would align the definition of ''facility'' more closely with definitions used in other CAA regulatory programs, including the GHGRP. As discussed in the following section of the preamble, EPA is creating a new definition ''production line'' that has the same meaning as the definition of ''facility'' in 40 CFR part 82.

Import. EPA is proposing to adopt the definition of the term ''import'' contained in subsection (b) of the AIM Act, which is nearly identical to the definition of ''import'' in 40 CFR part 82, and add one of the three exemptions from the part 82 definition. EPA is proposing to include an exemption for the off-loading of used regulated substances from a ship during servicing. This occurs, for example, when a foreign ship's refrigeration system is serviced in a U.S. port and refrigerant that is recovered from that system is offloaded for reclamation or destruction. The alternatives would be requiring shipping companies to hold allowances or store the used refrigerant on board until reaching another country. Issuing allowances to shipping companies would be impractical as servicing can happen unexpectedly to any type of vessel and EPA does not have data on which to base an allocation. Prohibiting offloading is potentially problematic because it could result in venting of the

refrigerant when the ship is offshore rather than the proper reclamation or disposal that is required under EPA's refrigerant management regulations at 40 CFR part 82, subpart F.

Metered dose inhaler. EPA is proposing to define MDIs as ''a handheld pressurized inhalation system that delivers small, precisely measured therapeutic doses of medication directly to the airways of a patient. MDIs treat health conditions such as asthma and chronic obstructive pulmonary disease and are approved for such use by the U.S. Food and Drug Administration (FDA).'' This definition is substantially similar to the definition of ''essential metered dose inhaler'' in 40 CFR part 82 (except that the part 82 definition refers to a determination of essentiality by either the Parties to the Montreal Protocol or the FDA).

Reclaim. EPA is proposing to define reclaim as ''the reprocessing of regulated substances to all of the specifications in appendix A of 40 CFR part 82, subpart F (based on AHRI Standard 700–2016) that are applicable to that regulated substance and to verify that the regulated substance meets these specifications using the analytical methodology prescribed in section 5 of appendix A of 40 CFR part 82, subpart F.''

C. What new definitions is EPA proposing?

Subsection (b) of the AIM Act defines some specific terms and the Act as a whole introduces other new terms that it does not define. EPA is proposing to establish definitions for a number of new terms that are relevant for the allowance allocation and trading program. These terms are: Allowance, Application-specific allowance, Bulk, Chemical vapor deposition chamber cleaning, Defense spray, Etching, Exchange value, Exchange value equivalent, Final customer, Mission-critical military end uses, On board aerospace fire suppression, Process agent, Production/Produce, Production line, Regulated substance, and Structural composite preformed polyurethane foam.

Allowance. The AIM Act defines allowance as a limited authorization for the production or consumption of a regulated substance established under subsection (e). EPA is proposing to adopt that definition and add that an allowance allocated under this subsection does not constitute a property right as stated in subsection (e)(2)(D)(ii)(aa) and that an allowance allocated under the authority of the AIM Act can be retired, revoked, or withheld at the discretion of the relevant Agency official. EPA notes that the framework for issuing allowances is subject to change through notice and comment rulemaking.

Application-specific allowance. EPA is proposing to establish a new category of allowances that would be issued only to entities in the six listed applications at (e)(4)(B)(iv) of the AIM Act. EPA is proposing to define this term as ''a limited authorization granted in accordance with subsection (e)(4)(B)(iv) of the AIM Act for the production or import of a regulated substance for use in the specifically identified applications that are listed in that subsection and in accordance with the restrictions contained at § 84.5(c). An application-specific allowance does not constitute a property right and can be retired, revoked, or withheld at the discretion of the relevant Agency official.''

Bulk. EPA is proposing to define this term as ''a regulated substance of any amount that is in a container for the transportation or storage of that substance such as cylinders, drums, ISO tanks, and small cans. A regulated substance that must first be transferred from a container to another container, vessel, or piece of equipment in order to realize its intended use is a bulk substance. A regulated substance contained in a manufactured product such as an appliance, an aerosol can, or a foam is not a bulk substance.'' EPA is proposing to define this term so as to distinguish between a regulated substance that is in a container from a regulated substance that is in a product or other type of use system. The examples provided in the definition are not exclusive.

Chemical vapor deposition chamber cleaning. EPA is proposing to define this term as, ''in the context of semiconductor manufacturing, a process type in which chambers used for depositing thin films are cleaned periodically using plasma-generated fluorine atoms and other reactive fluorine-containing fragments.'' This definition is closely based on the source category definition for electronics manufacturing in the GHGRP (40 CFR 98.90(a)(2)).

Defense spray. EPA is proposing to define this term as ''an aerosol-based spray used for self-defense, including pepper spray and animal sprays, and containing the irritant capsaicin and related capsaicinoids (derived from oleoresin capsicum), an emulsifier, and an aerosol propellant.'' EPA is taking comment on whether this definition is inclusive of defense sprays potentially covered by subsection (e)(4)(B)(iv) of the AIM Act.

Etching. EPA is proposing to define etching as, ''in the context of semiconductor manufacturing, a process type that uses plasma-generated fluorine atoms and other reactive fluorine-containing fragments that chemically react with exposed thin-films (*e.g.,* dielectric, metals) or substrate (*e.g.,* silicon) to selectively remove portions of material.'' This definition is closely based on the definition of the electronics manufacturing source category in the GHGRP (40 CFR 98.90(a)(1)).

Exchange value. The AIM Act defines ''exchange value'' as the value assigned to a regulated substance in accordance with subsections (c) and (e), as applicable. Subsection (c) includes a list of regulated substances with listed exchange values. Subsection (e) includes a list of ODS with listed exchange values. EPA is proposing to adopt the definition contained in the AIM Act, including the tables, which EPA would replicate in Appendix A of 40 CFR part 84.

Exchange value equivalent. This proposal also uses the term ''exchange value equivalent'' or ''EVe'' to provide a common unit of measure. EPA is proposing to define EVe to be determined by multiplying the mass of a regulated substance by the exchange value of that substance. For example, 50 kilograms of HFC–134a would be 71,500 kgEVe (50 x 1,430). This can also be written as 71.5 metric tons exchange value equivalent (MTEVe). EPA is proposing to issue allowances in units of one MTEVe. This proposal also uses the term ''EV-weighted'' to describe a number presented in exchange value equivalents. For example, EPA is proposing that the size of an allowance be one EV-weighted ton.

EVe allows for the comparison between, and calculation with, different regulated substances. For example, a blend containing multiple regulated substances would have an EVe that could be used to determine the quantity of allowances needed to produce or consume the regulated HFCs that are components of the blend. However, the EVe would only reflect the components of the blend that are regulated substances under the AIM Act. In situations where the blend contains components that are not regulated substances (*e.g.,* hydrofluoroolefins or HFOs), the EVe would not match the GWP of the blend and would be slightly lower. This would be the case for blends

R–448A,[29] R–449A, and R–450A, which contain a mix of HFCs and HFOs.

Final customer. EPA is proposing to define this term as ''the last person to purchase a bulk regulated substance before its intended use.'' For each use of HFCs, the final customer can be different. For example, an air-conditioning contractor would generally be the final customer in the residential air conditioning market. For foams, the foam systems house would be the final customer, as they are making a product (*i.e.,* a foam system). Likewise, aerosol fillers, semiconductor manufacturers, air-conditioning and refrigeration equipment manufacturers that ship equipment pre-charged, fire extinguisher manufacturers would be the final customer. EPA seeks comment on whether a list of examples like this should be incorporated into the definition.

Mission-critical military end uses. EPA is proposing to define this term as ''those uses of regulated substances by an agency of the Federal Government responsible for national defense which have a direct impact on mission capability, as determined by the U.S. Department of Defense, including, but not limited to uses necessary for development, testing, production, training, operation, and maintenance of Armed Forces vessels, aircraft, space systems, ground vehicles, amphibious vehicles, deployable/expeditionary support equipment, munitions, and command and control systems.''

On board aerospace fire suppression. EPA is proposing to define this term as ''use of a regulated substance in fire suppression equipment used on board commercial and general aviation aircraft and space vehicles. On board commercial aviation fire suppression systems are installed throughout mainline and regional passenger and freighter aircraft, including engine nacelles, auxiliary power units (APUs), lavatory trash receptacles, baggage/crew compartments, and handheld extinguishers.'' EPA takes comment on whether this definition should include general aviation, which consists of private and/or business aircraft, which may not have the same requirements as commercial aircraft for on board fire suppression systems. This definition excludes military aircraft because they are already covered under the definition of mission-critical military end uses. EPA has previously defined ''space vehicle'' under Title VI regulations at 40 CFR 82.3 as a man-made device, either manned or unmanned, designed for operation beyond earth's atmosphere. This definition includes integral equipment such as models, mock-ups, prototypes, molds, jigs, tooling, hardware jackets, and test coupons. Also included is auxiliary equipment associated with test, transport, and storage, which through contamination can compromise the space vehicle performance. EPA takes comment on whether space vehicle, as defined above, is inclusive of applications that would be considered as on board fire suppression. EPA requests relevant information on HFC use in these applications.

Process agent. The AIM Act uses the term ''process agent'' without defining it. EPA is proposing to define the term as ''the use of a regulated substance to form the environment for a chemical reaction (*e.g.,* use as a solvent, catalyst, or stabilizer) where the regulated substance is not consumed in the reaction, but is removed or recycled back into the process and where no more than trace quantities remain in the final product. A feedstock, in contrast, is consumed during the reaction.'' [30] This definition matches the definition used by the Montreal Protocol's Technology and Economic Assessment Panel (TEAP) and is well-established and understood in the ODS context.[31]

Production/Produce. EPA is proposing to adopt the definition of the term ''produce'' that is found in subsection (b) of the AIM Act. While substantially similar to the definition of the term ''production'' at 40 CFR 82.3, there are a few differences. First, the AIM Act definition does not use the word ''transformed'' but rather textually incorporates most of the definition of the defined term ''transform'' from § 82.3. Second, the definition specifically excludes the reclamation of a regulated substance from the term production. This exclusion was not found in § 82.3 but matches EPA's long-held interpretation in CAA Title VI programs that reclamation does not constitute production and that reclaimed material is inherently reused/recycled.

In addition, EPA is proposing to specifically exclude from production ''the inadvertent or coincidental creation of insignificant quantities of a regulated substance during a chemical manufacturing process, resulting from unreacted feedstock, from the listed substance's use as a process agent present as a trace quantity in the chemical substance being manufactured, or as an unintended byproduct of research and development applications.'' This phrase appears in the 40 CFR 82.3 definition of ''controlled substance.'' EPA is proposing that the exclusion of these insignificant quantities is more properly considered in defining what qualifies as production given they describe acts of ''creation'' or ''resulting from'' or ''byproduct of.'' Under this proposal, such insignificant quantities created in the above-listed circumstances would be considered regulated substances, but would not be considered production. Combining all of the exclusions under one term increases clarity when interpreting the terms ''produce'' and ''regulated substance'' together.

Production line. EPA is proposing to define the term ''production line'' to mean ''any process equipment (*e.g.,* reactor, distillation column) used to convert raw materials or feedstock chemicals into regulated substances or consume regulated substances in the production of other chemicals.'' In 40 CFR part 82, EPA used this same description to define the term ''facility.'' The Agency considers the term ''production line'' to be more consistent with common usage in the chemical industry to refer to a specific set of process equipment, as opposed to the buildings and land where production takes place.

Regulated substance. The AIM Act uses the term ''regulated substance'' to refer to HFCs statutorily listed in the AIM Act and any such substance added to the list in future consistent with subsection (c)(3)(A). EPA is proposing to define the term as ''a hydrofluorocarbon listed in the table contained in subsection (c)(1) of the AIM Act and a substance included as a regulated substance by the Administrator under

[29] There are a number of different blends that contain HFCs and non-regulated substances such as HFOs. As an example, the blend R–448A is made of five components, three of which are HFCs regulated under the AIM Act and two HFOs. The percentage of the blend and the exchange value of the constituents are: 26 percent HFC–32 (675), 26 percent HFC–125 (3,500), 21 percent HFC–134a (1,430), 20 percent HFO–1234yf (0), and 7 percent HFO–1234ze (0). The contribution of each HFC to the total EVe of the blend is calculated by multiplying the percentage of the blend made up of that HFC times its EVe, and the sum of the contributions of all the blend constituents is the blend EVe. Thus, the EVe of R–448A is $(0.26 \times 675) + (0.26 \times 3{,}500) + (0.21 \times 1{,}430) + (0.20 \times 0) + (0.07 \times 0) = 1{,}385.8$.

[30] The term ''consume'' in the AIM Act has two separate meanings. In the context of describing transformation/feedstock uses of HFCs, the word ''consume'' is used to mean the decomposition of the substance. For example, subsection (b)(7)(B) excludes from the definition of ''produce'' ''the manufacture of a regulated substance that is used and entirely *consumed* (except for trace quantities) in the manufacture of another chemical.'' (emphasis added).

[31] Montreal Protocol on Substances that Deplete the Ozone Layer, *Medical and Chemical Technical Options Committee 2018 Assessment Report* (United Nations Environmental Programme, 2018). *https://ozone.unep.org/sites/default/files/2019-04/MCTOC-Assessment-Report-2018.pdf.*

the authority granted in subsection (c)(3). A current list of regulated substances can be found in appendix A of this part.''

Structural composite preformed polyurethane foam. EPA is proposing to define this term as ''a foam blown from polyurethane that is reinforced with fibers and with polymer resin during the blowing process, and is preformed into the required shape (*e.g.,* specific boat or trailer design) to increase structural strength, while reducing the weight of such structures.''

EPA welcomes comment on these proposed defined terms and whether any additional terms should be defined in this rulemaking.

V. How is EPA proposing to establish the HFC production and consumption baselines?

The first step in phasing down HFCs through an allowance allocation and trading program is to establish the U.S. production and consumption baselines. It is from these baselines that the total annual production and consumption allocations can be derived in a stepwise manner over time.

A. What are the components of the production and consumption baselines?

Subsection (e)(1) of the AIM Act directs EPA to establish a production baseline and a consumption baseline and provides the equations for doing so. The equations comprise an HFC component, an HCFC component, and a CFC component. Specifically, the production baseline is equal to the sum of: (i) The average annual quantity of all regulated substances produced in the United States from January 1, 2011, through December 31, 2013, and (ii) 15 percent of the production level of HCFCs in calendar year 1989, and (iii) 0.42 percent of the production level of CFCs in calendar year 1989. For the purposes of establishing the baselines, EPA must use the exchange values assigned by Congress to develop an exchange value-weighted amount for both production and consumption. The equation representing the production baseline calculation is:

Equation 1: Production Baseline

$$\text{Production Baseline} = 100\% \left[\frac{2011 + 2012 + 2013 \text{ HFC EV-weighted production level}}{3}\right] + 15\% \text{ [1989 HCFC EV-weighted production level]} + 0.42\% \text{ [1989 CFC EV-weighted production level]}$$

Similarly, the AIM Act defines the consumption baseline as equal to the sum of (i) the average annual quantity of the consumption [32] of regulated substances in the United States from January 1, 2011, through December 31, 2013, and (ii) 15 percent of the consumption of HCFCs in calendar year 1989, and (iii) 0.42 percent of the consumption of CFCs in calendar year 1989. The equation representing the consumption baseline calculation is below.

Equation 2: Consumption Baseline

$$\text{Consumption Baseline} = 100\% \left[\frac{2011 + 2012 + 2013 \text{ HFC EV-weighted consumption level}}{3}\right] + 15\% \text{ [1989 HCFC EV-weighted consumption level]} + 0.42\% \text{ [1989 CFC EV-weighted consumption level]}$$

In developing the proposed HFC consumption baseline, EPA is proposing to include HFCs that are bulk chemicals and exclude HFCs that are contained in a product. This proposal is based on EPA's experience implementing similar provisions under CAA Title VI for ODS.[33] The CAA Title VI provisions are written and structured similarly to the AIM Act provisions, and therefore it is reasonable to interpret and implement those terms in a similar manner. Under the phaseout requirements for ODS (40 CFR part 82, subpart A), only imports and exports of bulk controlled substances are counted as part of the consumption cap.[34] Using a different mechanism under the HFC phasedown could create confusion and would likely cause disruption within the imported products market. Specifically, many companies that import bulk HFCs also imported bulk ODS substances and are therefore familiar with EPA's regulations and allocation program used to phaseout ODS under Title VI of the Clean Air Act. If the HFC allocation framework under the AIM Act were expanded beyond bulk substances to include products containing HFCs, the regulated importer community would be many times greater, would likely be caught unawares, and would encompass entities unfamiliar with EPA's general approach to the allocation program. Further, if the Agency were to include HFCs contained in products in the baseline figures, it also would need to include data reflecting HCFCs and CFCs

[32] Consumption is equal to production plus imports minus exports.

[33] This approach is also consistent with the approach taken under the Montreal Protocol. Decision I/12A, taken at the first Meeting of the Parties to the Montreal Protocol, defines ''controlled substances'' as bulk chemical. As such, the production and consumption schedules under the Montreal Protocol only apply to bulk chemical.

[34] For purposes of implementing the ODS phaseout regulations (40 CFR part 82, subpart A), EPA defined a controlled substance, in part, as any listed ODS, whether existing alone or in a mixture, but excluding any such substance or mixture that is in a manufactured product other than a container used for the transportation or storage of the substance or mixture. Any amount of a listed substance that is not part of a use system containing the substance is a controlled substance. If a listed substance or mixture must first be transferred from a bulk container to another container, vessel, or piece of equipment in order to realize its intended use, the listed substance or mixture is a ''controlled substance.''

contained in products in 1989 to complete the baseline formula. The Agency does not have this data and given the amount of time that has passed since 1989, it would be administratively infeasible to collect such data now (as opposed to bulk CFC and bulk HCFC data which the Agency already collected many years ago). Given the indications that subsection (e) of the AIM Act does contemplate regulation of bulk substances—such as the exceptions for feedstocks and process agents (which are both examples of bulk substances) in subsection (e)(4)(A) and the references in (e)(4)(B)(i) and (iv) to allocation of allowances for use of regulated HFCs in particular applications—and given that it does not appear to contemplate the implications of importing products or equipment, EPA believes that this proposed interpretation is consistent with the goals of the Act.

EPA is also proposing not to include transhipments within the baseline. A transhipment is the continuous shipment of a regulated substance, from a foreign country of origin through the United States, to a second foreign country of final destination. Transhipments do not enter interstate commerce in the United States. EPA proposes to not include transhipments in the baseline calculation because the sum effect of this activity would be zero—the regulated substance is both imported (which would be added to the consumption baseline) and exported (which would be subtracted from the consumption baseline) in identical quantities.

1. How is EPA proposing to determine the HFC component of the production and consumption baselines?

In order to calculate the production and consumption baselines, EPA must determine the annual production and consumption of the statutorily listed HFCs in the years 2011, 2012, and 2013. EPA is proposing to use three sources of data in order to calculate HFC consumption and production figures for 2011 through 2013: (1) Data reported to EPA's GHGRP; (2) data received in response to EPA's ongoing and planned outreach, including the notice of data availability (NODA) published February 11, 2021, stakeholder meetings, and planned letters sent out, including under CAA section 114; and (3) any data received in response to this notice of proposed rulemaking by the comment due date.

(a) What is the GHGRP and what data are available from it?

The GHGRP was established in 2009 and requires various facilities and suppliers to annually report data related to GHGs to EPA (see 40 CFR part 98). The relevant subpart that relates to reporting on HFC production and consumption is subpart OO, ''Suppliers of Industrial Greenhouse Gases.'' Because the HFCs listed as regulated substances under the AIM Act are industrial GHGs, EPA has been collecting since the GHGRP's inception a significant amount of data relevant to HFC production and consumption as defined under the AIM Act. EPA can use these data to begin approximating the historic HFC production and consumption figures necessary to calculate baselines under the AIM Act.[35]

Under the GHGRP, reporting and other requirements apply to the facility or supplier based on the source and/or supplier categories located at the facility, their emission and/or supply levels (as applicable to a source or supplier category), and other factors. Facilities that undertake some types of activities (*e.g.,* import or export of fluorinated GHGs)[36] must report for that source or supplier category only if their emissions or supplies (or related quantities) meet or exceed a threshold. Facilities that undertake other types of activities (*e.g.,* fluorinated GHG production) are required to report for at least three years regardless of the magnitude of their emissions or supplies. Once data are submitted, EPA conducts a multi-step verification process to ensure reported data are complete and accurate.

Subpart OO captures the vast majority of the bulk HFC production, import, and export in the United States. Subpart OO requires reporting from producers of HFCs and certain importers, exporters, and destroyers of HFCs. The data reported are by chemical, and thus, EPA can exclude from the calculation of baselines any HFCs reported to the GHGRP that are not listed as regulated substances under the AIM Act. All producers of HFCs, as defined in 40 CFR 98.410(b), are required to report the quantities that they produce, transform (unless the transformed feedstock is produced onsite), destroy, or send off-site for transformation or destruction, unless otherwise provided in subpart OO. Importers with bulk imports of N_2O, fluorinated GHGs, and CO_2 that in combination are equivalent to 25,000 metric tons of carbon dioxide equivalent ($MTCO_2e$) or more are required as part of their annual report to report the quantities that they import, destroy, or send off-site for transformation or destruction. Exporters with bulk exports of N_2O, fluorinated GHGs, and CO_2 that in combination are equivalent to 25,000 $MTCO_2e$ or more are required as part of their annual report to report the quantities that they export.

As a result of these requirements, the data provided through the GHGRP reflects most of the production, import, export, and destruction of regulated substances for the baseline years. However, EPA is aware of some data that are not collected through GHGRP that are relevant for calculating the HFC component of the AIM Act baselines.

Companies that import or export fewer than 25,000 $MTCO_2e$ of industrial gases, including HFCs, are exempted from reporting.[37] Analyses performed during the development of the GHGRP indicated that this threshold would have minimal impact on the overall topline number of HFCs imported and exported, exempting less than one percent of the GWP-weighted quantities of industrial GHGs in containers that are imported or exported.[38] This high coverage is due in part to the high GWPs of fluorinated GHGs, including HFCs, which trigger reporting at relatively low volumes (*e.g.,* 17.5 metric tons (MT) for HFC–134a or 7.2 MT of HFC–125), and in part to the fact that the largest importers and exporters account for the

[35] While EPA determined that chemical-specific GHG data at the facility and importer/exporter level is CBI, EPA also determined that it would release the data in aggregated amounts as long as the aggregations meet the criteria outlined in the **Federal Register** notice cited here. For purposes of the data presented in the NODA accompanying this rulemaking and in the docket for this proposed rule, EPA determined that release of the aggregated data would not disclose CBI. The data presented in this proposed rule are aggregations for which the aggregation criteria have been met to ensure the underlying CBI is shielded from public disclosure, and the individual reporters have been notified of EPA's intent to aggregate.

[36] For the purposes of the GHGRP and this proposal, the term ''fluorinated GHGs'' does not include controlled substances under CAA Title VI.

[37] For importers and exporters, the GHGRP also exempts the reporting of individual shipments containing less than 25 kg of fluorinated GHGs. In an analysis performed in 2006, EPA found that exempting such shipments would reduce the total quantity of industrial GHGs reported by only 0.01 percent. Thus, this exemption is not likely to have a material impact on the figures used for imports and exports in calculating the AIM Act consumption baseline.

[38] See the Technical Support Documents for subpart OO (below). One caveat is that this is based on data from 2006, and it is possible that import and export patterns have changed since then. U.S. Environmental Protection Agency, Office of Air and Radiation. *Technical Support Document for Bulk Imports and Exports of Fluorinated GHGs N_2O and $CO_{2\leq}$ Proposed Rule for Mandatory Reporting of Greenhouse Gases,* 2009. *https://www.epa.gov/sites/production/files/2015-07/documents/tsd_bulk_imports_exports_2-02-09.pdf.*

majority of the imported and exported quantities.

EPA routinely reviews import data provided by U.S. Customs and Border Protection (CBP) to verify reported supply data and identify facilities that may be subject to annual GHG reporting under 40 CFR part 98. Based on this review and other information, there also appear to be companies that imported or exported more than 25,000 $MTCO_2e$ of HFCs annually that have not reported imports or exports to the GHGRP. Section V.B.2 of this proposal provides instructions for late reporting.

Subpart OO also does not require the reporting of HFC–23 that is intentionally coproduced, captured, and refined for use, or unintentionally created. Consequently, EPA is lacking data related to the creation of HFC–23 and any subsequent destruction or refinement for sale. To address this data gap, EPA has sought information from facilities that create HFC–23, either intentionally or unintentionally. EPA is not docketing the individual responses related to HFC–23 due to companies' CBI claims, but has included aggregated data in the analyses in the docket.

Two other data gaps include (1) the amounts of HFCs other than HFC–23 that were destroyed by free-standing destruction facilities (*i.e.,* facilities that destroy HFCs but do not import or produce) during the baseline years [39] and (2) any amounts of HFCs that were transformed by facilities that transform HFCs but that do not also produce them (which is necessary to determine the quantity of HFCs that are produced for use as feedstock).

Not accounting for quantities that were destroyed or transformed would result in overestimates of production and consumption as those quantities are defined under the AIM Act, since the quantities destroyed or transformed are subtracted from GHGRP production to obtain AIM Act production. While EPA is not aware of any facilities in the U.S. that transform HFCs but do not produce HFCs, we cannot rule out the possibility that they exist.

(b) What outreach is EPA doing to collect data to fill known gaps in the GHGRP?

As outlined in the prior section, the data available through GHGRP will significantly contribute to EPA's ability to calculate the amount of HFCs produced and consumed in the United States in 2011–2013 for purposes of determining the AIM Act baselines. However, there are known gaps in the GHGRP data, and EPA is making best efforts to fill these gaps. Specifically, EPA published a NODA on February 11, 2021, outlining the same information provided in the prior section concerning what data are available through GHGRP and where EPA perceived data gaps (86 FR 9059). EPA invited the public to provide additional data and identify other potential gaps in EPA's knowledge. In response to the NODA, EPA received 29 public comments which can be found in the docket for this rulemaking, five comments containing material claimed as CBI, and at least one additional report of historic HFC data not previously reported to the GHGRP. EPA received a number of public comments that were outside of the scope of the NODA, *i.e.,* several comments were not germane to additional data that could help inform the HFC production and consumption baselines for 2011, 2012, and 2013. Some of these comments focused on implementation of various provisions of the AIM Act, including but not limited to allocation methodology, the statutory years used to establish the HFC production and consumption baselines, application-specific allowances, and projected market trends for, and associated with, various end uses of the regulated HFCs. EPA appreciates these comments and, in some instances, has proposed provisions in this rulemaking that address several of the specific points or has integrated specific points into section XI of the preamble, which includes the ANPRM. Nonetheless, the Agency's intent in releasing the NODA was to ask for additional data that could inform the HFC production and consumption baseline for 2011, 2012, and 2013. The Agency has reviewed the comments submitted containing material claimed as CBI as well as the data submitted via e-GGRT, and to the extent that these submissions fill in our known data gaps, the proposed HFC production and consumption baseline reflect this information and data accordingly. Some of the information received starts to fill in the gaps EPA identified in the NODA and above. EPA continues to invite public input through this proposed rulemaking and welcomes provision of additional data related to HFC production and consumption in the years 2011, 2012, and 2013.

EPA has separately requested approval under the Paperwork Reduction Act to collect missing data [40] and intends to send letters under the authority of subsection (k)(1)(C) of the AIM Act and section 114 of the CAA to companies who may have relevant data.

EPA also held a stakeholder meeting on February 25, 2021. Approximately 200 people participated in the stakeholder meeting to learn more about the AIM Act and how EPA was moving forward with implementation. At that meeting, EPA reminded stakeholders to submit relevant data to help inform this rulemaking. Additionally, five stakeholder workshops were held between March 11, 2021, and March 12, 2021, specific to stakeholders interested in the statutorily listed applications identified in AIM Action section (e)(4)(B)(iv); as with the February 25, 2021, stakeholder meeting, these workshops provided participants the opportunity to learn more about the AIM Act and how EPA was moving forward with implementation. One workshop was held for each sector identified in AIM Act section (e)(4)(B)(iv). EPA did not hold a stakeholder workshop for the mission-critical military sector because, as will be explained in a subsequent section of this preamble, EPA is working directly with the Department of Defense on distributing allowances for mission-critical military end uses. Stakeholders at each workshop were similarly reminded during these workshops to submit relevant data to help inform this rulemaking. In addition, EPA has met with numerous stakeholders and participated in meetings sponsored by other government and non-government entities (*e.g.,* Small Business Administration's February 26, 2021, small business environment roundtable). A full list of meetings EPA has conducted with stakeholders is provided in the rulemaking docket.

For anyone seeking to submit data to the Agency regarding HFC production, consumption or use in the six applications listed in subsection (e)(4)(B)(iv) of the AIM Act, please contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

2. What is the current HFC component of the production and consumption baselines?

The equations in the AIM Act for the production and consumption baselines include the average annual production and consumption of HFCs between January 1, 2011, and December 31, 2013. Based on the information reported to the GHGRP and gathered through recent data collection efforts, EPA estimates average HFC consumption at 256 million metric tons of exchange value equivalent (MMTEVe) and HFC production at 331 MMTEVe for those

[39] Such facilities have only been required to report the quantities that they destroy since 2019, when they reported their destruction for 2018.

[40] View Information Collection Request (ICR) Package; *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202103-2060-005*.

three years. A memo to the docket (''HFC Production and Consumption Data—Proposed Rule'') provides the current aggregated data for each of the three years similar to that provided in the NODA, as well as a list of companies that have reported data to EPA for those years. EPA anticipates that these values will change in the final rule as the Agency continues to collect additional data.

3. What are the HCFC and CFC components of the production and consumption baselines?

The equations in the AIM Act for the production and consumption baselines include HCFC and CFC components from 1989. That year was designated under the Montreal Protocol as the baseline year used for several class I substances (Groups III, IV, and V in the Montreal Protocol) as well as for class II substances (HCFCs). See, *e.g.,* 74 FR 66412 (December 15, 2009). As a result, EPA has previously developed a complete accounting of ODS production, import, and export during that year and is therefore not specifically requesting comment on that value.[41]

Specifically, the 1989 production and consumption levels for HCFCs are 216.9 MMTEVe and 210.3 MMTEVe respectively, and the 1989 production and consumption baselines for CFCs are 2,799.8 MMTEVe and 2,784.5 MMTEVe respectively. Fifteen percent of the 1989 HCFC production and consumption baselines is 32.5 MMTEVe and 31.5 MMTEVe respectively, while 0.42 percent of the 1989 CFC production and consumption baselines is 11.8 MMTEVe and 11.7 MMTEVe respectively.

B. What are the proposed HFC production and consumption baselines?

Using the equation provided in the AIM Act, based on the data currently available to EPA (which, as noted in the prior section, EPA is still working to refine), EPA proposes to find that the U.S. production baseline is 375 MMTEVe and the U.S. consumption baseline is 299 MMTEVe. To provide the most accurate production and consumption baselines, EPA reiterates its request for data submissions and other information relevant to HFC production and consumption in 2011, 2012, and 2013. Once established through the final rule, EPA does not intend to amend the baselines. While EPA is taking comment on the inputs to the calculation, the Agency notes that the formulas used for calculating the baselines are established in the AIM Act.

TABLE 4—INPUTS FOR CALCULATION OF PRODUCTION AND CONSUMPTION BASELINES

Input	Value (MMTEVe)	Percentage in baseline	Modified value (MMTEVe)
2011–2013 average HFC production	331	100	331
1989 HCFC production	216.9	15	32.5
1989 CFC production	2,799.8	0.42	11.8
Production baseline	.....	.....	375
2011–2013 average HFC consumption	256	100	256
1989 HCFC consumption	210.3	15	31.5
1989 CFC consumption	2,784.5	0.42	11.7
Consumption baseline	.....	.....	299

VI. How is EPA proposing to establish allowances?

This section provides an overview of how EPA intends to establish a system providing for HFC production and consumption allowances and EPA's proposed methodology for issuing allowances. The AIM Act in subsection (e)(3) requires EPA to conduct a rulemaking to phase down production and consumption of regulated substances in the United States through an allowance allocation and trading program. Aside from establishing the cap on the allowance program (by defining how to calculate the baseline and requiring a set percentage reduction in specific years from that baseline), the AIM Act provides EPA considerable discretion in determining how to establish the allowance program and how to allocate allowances in that program. Because EPA has experience phasing out production and consumption of ODS under Title VI of the CAA in similar industries, EPA is using that experience to inform this proposal.[42]

A. What is an allowance?

EPA uses an allowance as the unit of measure that controls production and consumption. Subsection (e)(2)(D)(ii) of the AIM Act specifies that an allowance allocated by EPA under the AIM Act is a limited authorization for the production or consumption of a regulated substance and does not constitute a property right. EPA is proposing that the Agency would issue allowances that would be valid between January 1 and December 31 of a given year, also known as a ''calendar-year allowance.'' A calendar-year allowance represents the privilege granted to a company to produce or import regulated substances in that year. EPA proposes to allocate production allowances, consumption allowances, and ''application-specific allowances'' for six uses specified in the Act.[43] EPA proposes that producing HFCs would require expending both production allowances and consumption allowances, since production is a component of the AIM Act definition of what composes consumption. Importing HFCs would require expending only consumption allowances. This is the mechanism EPA has used to implement the ODS phaseout and would meet the expectations of, and be understood by, producers and importers of HFCs. This design also helps EPA ensure that both the production and consumption caps from the AIM Act will be met through the allowances allocated. As discussed later, EPA is proposing that ''application-specific allowances'' are a third category of allowances that can be

[41] For more information on historic U.S. ODS production and consumption data, please visit the United Nations Environment Program's website at *https://ozone.unep.org/countries/profile/usa.*

[42] Collectively, EPA's regulations governing the phaseout of ODS can be found in Subpart A to 40 CFR part 82. *https://ecfr.federalregister.gov/current/title-40/chapter-I/subchapter-C/part-82.*

[43] The ODS framework also issued allowances for specific uses such as an essential use allowance or a critical use allowance.

expended to either produce or import HFCs.

EPA is proposing that producing or importing HFCs that will be used and entirely consumed (except for trace quantities) in the manufacture of another chemical (*i.e.,* for use as a feedstock, which is also known as transformation) would not require expending production or consumption allowances. In general, such HFCs are exempted from the term ''produce'' under subsection (b) of the AIM Act. However, HFCs intended to be used for transformation are regulated substances and thus certain provisions, such as recordkeeping and reporting, apply to them to verify that they are in fact transformed. As such, EPA is proposing that an importer must submit a petition and receive a non-objection notice before importing HFCs for transformation. EPA discusses proposed recordkeeping and reporting requirements for HFCs that are intended to be used for transformation in section IX.D of this preamble.

The definition of ''Produce'' in the AIM Act and as proposed in this rulemaking explicitly excludes the reclamation, reuse, or recycling of a regulated substance. Because the definition of ''Consumption'' includes production, EPA intends to not include the amounts of domestically reclaimed HFCs for calculating the yearly production or consumption limits. The AIM Act does not exempt HFCs that have been reclaimed or otherwise reprocessed from consideration when determining the volume of HFCs imported into the United States. EPA is therefore proposing to require consumption allowances for the import of reclaimed HFCs, unless the reclaimed HFCs are being imported solely for the purpose of destruction. In the situation of reclaimed HFCs imported solely for the purpose of destruction, if the imported reclaimed HFCs were counted towards consumption, it would be subtracted back out when destroyed. If a consumption allowance were required to be expended in this circumstance, EPA would likely give that allowance back after the substance was destroyed. In this circumstance, it seems appropriate to simply permit reclaimed HFCs to be imported solely for purposes of destruction without expenditure of an allowance, assuming it can be reasonably demonstrated that the HFC will in fact be destroyed. EPA is accordingly proposing recordkeeping and reporting requirements in § 84.31. There is further discussion of the proposed process related to import of used HFCs for destruction in section VIII.F. of this preamble.

EPA is also proposing that producers of HFCs need not expend production or consumption allowances if the HFCs are destroyed in a timely manner using an approved technology. More specifically, EPA proposes that if a company intends to utilize onsite destruction capability, the company does not need to expend allowances for the HFC production if the HFCs are destroyed within 30 days. If a company intends to utilize offsite destruction capability, the company need not expend allowances for the HFC production if the HFCs are destroyed within 90 days. These timelines seem achievable as a practical matter while being short enough to avoid potential malfeasance that could occur over an elongated time horizon. EPA welcomes comment on this question and would consider longer time windows if necessary, to allow companies adequate time to destroy these chemicals.

This proposal is consistent with the definition of ''Produce'' in the AIM Act, which excludes ''the destruction of a regulated substance by a technology approved by the Administrator.'' HFCs that are domestically produced but are intended for destruction are regulated substances and thus certain provisions, such as recordkeeping and reporting, apply to them to verify that they are in fact destroyed. As discussed in the definitions section, EPA is proposing to exclude from production ''the inadvertent or coincidental creation of insignificant quantities of a regulated substance during a chemical manufacturing process, resulting from unreacted feedstock, from the listed substance's use as a process agent present as a trace quantity in the chemical substance being manufactured, or as an unintended byproduct of research and development applications.'' Under this proposal, such insignificant quantities created through the above-listed circumstances would not be considered production. The necessary implication of this proposed definition is that any other regulated substances created during the manufacturing process, either in quantities that are not insignificant or outside of the listed circumstances, *would* be considered ''production'' and would require expenditure of production and consumption allowances unless destroyed in a timely manner (there are additional restrictions related to HFC–23, as discussed further in subsection F). This proposal is intended to ensure that the regulated substances identified under the AIM Act are appropriately controlled and their production and consumption are reduced under the schedule outlined by Congress. Whether the regulated substance is inadvertently created through the chemical manufacturing process does not seem to be relevant to Congress's directive to phase down regulated substances on the statutorily defined schedule.

EPA is proposing that any import of bulk regulated substance in any quantity requires consumption allowances. This would include a company that brings into the United States a rail car, tank truck, or ISO tank containing a heel of regulated substances. It would also include imports of HFCs that are classified as ''U.S. goods returned.'' In such situations, the company would need to expend consumption allowances for the import. As with the proposal related to production, this proposal is intended to ensure that all the regulated substances identified under the AIM Act are appropriately phased down according to the schedule outlined. EPA is additionally concerned that providing an exemption for imports of heels or U.S. goods returned could provide avenues for illegal imports of HFCs if an entity were to mislabel a full container as only containing a heel or foreign produced material as a U.S. good returned. EPA is interested in comments, however, on whether it should consider exempting heels or U.S. goods returned as a necessary part of importers' standard practice to enable easier import and export of regulated substances.

However, EPA is proposing that companies that tranship HFCs do not need to expend allowances for that transhipment. In order to meet the definition of transhipped material, the HFCs cannot enter interstate commerce. Transhipped materials are also, by design, intended to be imported into, and then exported out of, the country in identical quantities. EPA is proposing that an entity does not have to expend consumption allowances for transhipped materials if the regulated substances are exported within 6 months of import. If a company does not tranship HFCs within six months of entry, EPA is proposing that the company would have to expend allowances. As explained in the reporting section, EPA is proposing that companies notify the Agency when a transhipment arrives and leaves the U.S. The intent of this proposal is to minimize the risk of illegal imports through the guise of transhipments. The United States experienced this method of illegal importation during the phaseouts of CFCs and HCFCs. EPA requests comment on the length of time a transhipment could reasonably be expected to be in the United States and

whether it is appropriate to allow as little as two months or as much as twelve months. EPA also requests comment on other ways to reduce the risk of HFC transhipments entering interstate commerce, such as monthly reporting (or other reporting frequency) of status while it remains in transit; making the bonded warehouse the responsible party for any transhipments that enter the market unaccounted for or vented; requiring a label; or registration with the certification ID tracking system discussed later in this proposal.

EPA is proposing that allowances issued under the AIM Act be an exchange value-weighted number rather than having allowances that are specific to each HFC. This approach would align with the approach for calculating the baseline envisioned in the AIM Act. Such an approach also maintains flexibility in the market if a producer or importer decides to switch between regulated substances. This would allow entities to efficiently distribute allowances as the market needs and may encourage transitions into regulated substances with lower exchange values earlier than would happen under the statutorily outlined schedule, which could lead to greater environmental and health benefits.

Under this proposed approach, one allowance would be equal to one metric ton of exchange value equivalent (MTEVe). Producers and importers would multiply the quantity of the HFC they seek to produce or import, in kilograms, by its exchange value and then divide by 1,000 to determine the total number of allowances needed. For example, based on the exchange values assigned to regulated substances in the tables provided in subsection (c) of the AIM Act, an importer would need to expend 1.43 consumption allowances to import one kilogram of HFC–134a. Given the variation in exchange values, one would need to expend between 0.053 allowances to produce one kg of HFC–152 and 14.8 allowances to produce one kg of HFC–23. EPA is proposing to adopt the table of regulated substances and their corresponding exchange values provided in section (c) of the AIM Act into appendix A to the subpart established for this rule.

EPA notes that the exchange values listed in the AIM Act for each regulated HFC, and for the CFCs and HCFCs used in the baseline calculations, are numerically identical to the 100-year global warming potentials (GWPs) of each substance, as given in the Errata to Table 2.14 of the IPCC's Fourth Assessment Report (AR4) [44] and Annexes A, C, and F of the Montreal Protocol. In practical terms, producers, importers, and exporters would be able to use the AR4 GWP of a blend that contains only regulated HFCs in determining the amount of EVe allowances necessary to produce or import that blend, or more precisely, the regulated HFC components contained in the blend. If a blend contains components that are not listed as a regulated substance, only the components of the blend that are regulated HFCs would be included in determining the EVe. As a result, the EVe would be lower than the CO_2e value for blends that are not limited to regulated substances.

Under CAA Title VI, EPA allocated baseline allowances and annual year allowances derived from those company-specific baselines.[45] EPA is proposing to take a different approach for allowances allocated under the AIM Act. Specifically, EPA is proposing to only issue calendar-year allowances and not create company-specific baseline allowances. Under the ODS phaseout, baseline allowances were revisited periodically and updated based on transfers between companies. However, baseline allowances effectively became ''permanent'' and had value across control periods. Companies that stopped producing ODS had the ability to continue receiving allowances annually until the phaseout date, or could sell their market share to another company by transferring their baseline and/or calendar-year allowances. Under the AIM Act, EPA is proposing to only issue calendar-year allowances, which are only usable in the year they are issued, without the system of baseline allowances. This is intended to promote more flexibility in future years to adjust approaches and issuances of allowances to a dynamic marketplace as opposed to having allocations tied to a singular time in the past.

[44] IPCC, 2007: Summary for Policymakers. In: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M.Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. *https://www.ipcc.ch/report/ar4/wg1.*

[45] See, *e.g.* 78 FR 20007; April 3, 2013. *https://www.federalregister.gov/d/2013-07758/p-93.*

B. What are EPA's proposed options for determining allocations?

1. For which years is EPA proposing to issue allowances?

EPA is planning to issue allowances for 2022 according to the framework and procedure established through this rulemaking by October 1, 2021. EPA intends to provide notice of 2023 allowances by October 1, 2022, using the framework and procedure to be established in this action. Given the AIM Act's deadline of finalizing a rule within 270 days of enactment, EPA has focused on what can be implemented in a short timeframe. EPA recognizes that phasing down a regulated substance as required under the AIM Act may have different implications for stakeholders than the Agency's past experience with phasing out ODS. To allow more time for consideration of these differences, EPA intends to seek additional input from stakeholders for later years. As such, EPA intends to develop another rule before allowances are allocated for calendar year 2024 that may alter the approach and procedure for allowance allocations past the year 2023. Given the phasedown schedule in the AIM Act, EPA is intending to revisit the initial approach for determining allowance allocations established through this rulemaking before the 2024 phasedown step to consider whether any changes would be appropriate and further build out aspects of this program. In 2024 the number of allowances will decrease from 90 percent of baseline to 60 percent of baseline. Additional analysis of the market—as well as the effects of implementing other provisions of the AIM Act—may be necessary before issuing allowances for that stepdown.

EPA welcomes comment on its intention to issue allowances later this year only for 2022. EPA is also considering issuing allowances for 2022 and 2023 by October 1 of this year. EPA's preference for proposing to establish a framework but issuing allowances only one year at a time provides time for the Agency to solicit and consider other potential mechanisms for issuing allowances. The Agency is also uncertain it can accurately forecast at this time the full quantity of allowances necessary for application-specific uses at this time. As discussed further in this section, application-specific allowances must be provided from within the general cap of available allowances. Until EPA can determine the number of application-specific allowances needed by the statutorily identified end users, it cannot know how many allowances remain from within the cap for general

allowances. As a result, EPA is proposing to determine the general pool of available allowances, and subsequently provide for individual company allocations, each calendar year, as opposed to allocating for multiple years at a time.

2. Based on currently available data, which companies is EPA proposing to issue allowances to?

EPA is proposing to issue allowances to companies that produced or imported HFCs in 2017, 2018, and/or 2019, and were still active in 2020. There are two elements within this proposal to discuss: Which companies will be eligible to receive allowances and which years of operation will be relevant to EPA's determination. Note that this is separate but related to how many allowances each company may be allocated. How EPA proposes to determine individual allocation amounts are discussed separately later.

EPA proposes that considerations for determining who should receive allowances in this initial rulemaking would include providing as seamless a transition as possible to a regime where allowances are needed to produce and import HFCs, promoting equity, timeliness of implementation, and availability of robust data. EPA is proposing to issue allowances to active HFC producers and importers operating in 2020 while providing a set aside for new entrants as a way to meet these objectives.

With regards to production allowances, EPA is proposing to issue allowances to companies that produced HFCs in the United States in 2017, 2018, or 2019 that were also still producing HFCs in 2020. In determining the appropriate approach for issuing allowances, EPA seeks to avoid issuing production allowances to entities that are unable to use them. In particular, EPA would like to avoid issuing allowances to companies that no longer produce HFCs or for HFC production capacity that has been shut down. EPA also seeks to avoid encouraging the creation of new high-GWP HFC production capacity within the United States, as that would be contrary to the intended goal of the AIM Act to phase down EV-weighted production by 85 percent from the calculated baseline figure within 15 years. Production facilities are capital intensive and are typically used for long periods of time. The list of HFC producers in the United States is included in a memo included in the docket (''HFC Production and Consumption Data—Proposed Rule''). As noted at an earlier point in this section, EPA is proposing that production of HFCs would require expenditure of both production and consumption allowances, since production is a component of the AIM Act's definition of consumption. As a result, EPA is proposing to issue production allowances to those companies that are currently listed as HFC producers, as well as any additional companies that can document their production of HFCs during the relevant years by the close of the comment period listed above in the **DATES** section of this preamble and report to the GHGRP.[46]

Consistent with the definition of ''Produce,'' EPA proposes that companies receive production allowances based on the total EVe quantity produced minus amounts for transformation minus amounts destroyed. EPA proposes that consumption allowances be determined for each company based on the EVe quantity of HFCs they produced (subtracting out transformation and destruction) plus the amount they imported (excluding the amount imported for transformation or destruction) minus the amount exported. As such, if a company produced HFCs, but then exported HFCs, their production allowances would be higher than their consumption allowances, assuming the company did not import more HFCs than it exported.

With regards to consumption allowances, EPA is taking a similar approach and proposing to issue allowances to companies that produced and/or imported HFCs during 2017, 2018, or 2019 that were still active in 2020. Similar to the discussion in the baseline section, EPA is proposing to use data reported to GHGRP under subpart OO requirements to determine companies' import and export activities in 2017–2020. As discussed in the section on establishing the baseline, there may be companies that imported and exported HFCs in quantities less than 25,000 $MTCO_2e$ and therefore were not required to report to the GHGRP. EPA is proposing to issue allowances to importers under the 25,000 $MTCO_2e$ threshold so long as the company provides import and export records to EPA, such as Customs forms or bills of lading, to document their historic practice consistent with that required under subpart OO. EPA will consider all data provided by the close of the comment period listed above in the **DATES** section of this preamble. EPA plans to verify any claimed import and export before a company is included in the allowance allocation.

EPA is also proposing to issue allowances at the parent company level. If multiple companies and/or facilities that imported HFCs in 2020 are controlled or owned by the same corporate entity, EPA is proposing to issue allowances only to their parent company. If a parent company had multiple subsidiaries reporting consumption or production, EPA is proposing to base the parent company's allocation on the single year where all subsidiaries combined were at their highest level. This approach would be administratively easier and improve transparency in the market. It would also avoid providing allowances at a higher level than is warranted for parent companies that have imported under multiple company names. As discussed later, to ensure the integrity of the set aside, EPA is proposing that new entrants cannot be a subsidiary or otherwise related to a calendar-year allowance holder. EPA therefore intends to request corporate ownership information from all companies for which allowances may be allocated.

EPA discusses the question of who could receive allowances in greater detail in another section of this proposal. As noted previously, EPA intends to revisit the initial approach and procedure for determining allowance allocations and for trading for the 2024 and later control periods in a subsequent rulemaking after additional public input and seeks advanced comment later in this proposal on ideas that are currently under consideration.

EPA is proposing to allocate allowances only to companies that produced or imported in 2020, even if they were active in prior years, to increase the likelihood that allowances are allocated to companies that are active in the HFC market. If a company was not actively producing or importing in 2020, EPA would generally presume this means the business exited the production and/or import market. Allocating allowances to companies no longer producing or importing would be at the expense of companies who are still actively invested in HFC production and import. However, the Agency is open to consider something different from this presumption for individual companies if their inactivity

[46] As noted previously, there is no minimum threshold for production of HFCs in the GHGRP. People may have previously noticed that e-GGRT was limited to submitting and revising GHGRP annual reports for years 2015 to 2020. However, EPA has now made available a supplemental XLS form for years 2011 to 2014 for HFC producers who were subject to the GHGRP, did not submit an annual report for one or more of those years, and would now like to submit their supply data for those corresponding years. If you have questions, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

was due to the COVID–19 pandemic or some other reason, and they have documentation to justify such inactivity. If a company wants individualized consideration of their market inactivity or activity in 2020, it must submit comments on this rulemaking containing relevant information no later than the end of the comment period.

EPA recognizes that some importers may be unaware of EPA's regulatory activity in this area. EPA is undertaking best efforts to develop a comprehensive dataset for purposes of allowance allocation by determining the universe of potential importers. EPA is using data available through the GHGRP, its February 11, 2021, NODA, stakeholder outreach meetings, outreach to trade associations that can inform their members, and direct communication with companies that EPA suspects may have imported in relevant years that are not captured in the Agency's data sources. EPA invites public input on whether there are any other means EPA should use to reach this potentially regulated community. EPA provides a list of companies that would be eligible for consumption allowances under this framework based on currently available data in the docket to this rule. EPA is proposing to issue allowances to those importers that are currently listed, as well as any additional importers that can provide import records to EPA such as Customs forms or bills of lading. As noted previously, EPA is also willing to consider individual circumstances of businesses that are generally active in the HFC import market, but did not import HFCs in 2020, if the reason for their inactivity is adequately justified to EPA by the close of the comment period.

For companies that have not previously reported their HFC import relevant data, such as through the GHGRP's e-GGRT or in response to the February 11, 2021, NODA, they should report to EPA no later than by the close of the comment period listed above in the **DATES** section of this preamble if they wish to be eligible for allowances in 2022 and 2023. Please contact the person listed under **FOR FURTHER INFORMATION CONTACT** and report your HFC import data for years 2011 through 2020 at *https://ghgreporting.epa.gov/ghg/login.do* if you have not reported previously. EPA needs to verify production and consumption data for companies that have not reported previously. Failure to provide data by the stated date will mean companies will not receive allowances for 2022 or 2023 if EPA finalizes the allocation approach as proposed, except for the possible availability of the set aside pool for importers not previously subject to GHGRP requirements. Any company that was required to report to the GHGRP under 40 CFR part 98, but did not do so in accordance with the regulatory requirements, should be aware that information on potential noncompliance will be forwarded to the appropriate EPA enforcement staff.

As an alternative to looking to data from 2017–2019, EPA is also taking comment on issuing allowances only to those companies that produced or imported HFCs in 2011–2013 or some other combination of years, including all years, between 2011 and 2019, assuming the company is still actively producing or importing as of 2020. To develop the baseline, EPA has been working to address data gaps and develop a fuller understanding of production and import in those years. EPA has already provided the public with a list of those companies through a Notice of Data Availability in the **Federal Register** (February 11, 2021; 86 FR 9059). EPA sees advantages and disadvantages to this approach. For example, once companies began to suspect that they might receive allowances based on the quantities that they imported, new importers may have entered the market with more HFCs than the level of demand. 2011–2013 is also prior to any anti-dumping and countervailing duties (AD/CVD) were finalized (see the memo to the docket on AD/CVD). To reward such behavior could harm companies that were already participating in the market and/or have invested heavily in developing new alternatives to replace HFCs. On the other hand, to exclude all newcomers based on the actions of a few could penalize those companies that had not entered the market to game their potential for allowances. Another factor to consider is when companies may have become aware that a phasedown on HFCs was likely and whether companies significantly changed their behavior. Reasonably, companies would have been aware that the United States may be taking action to phase down HFCs as of October 15, 2016, which is when countries agreed to the Kigali Amendment. EPA could consider relying on years prior to 2016, or, assuming companies that changed behavior did not significantly do so between October 15, 2016, and January 1, 2017, EPA could consider years prior to 2017. Using years prior to 2016 or 2017 would reflect the production and import market prior to this global agreement to phase down HFCs. Other proposed considerations surrounding eligibility for allowances are discussed in section VII.C of this proposal. EPA is also seeking comment on whether the Agency should consider individualized circumstances to take into account a company's 2020 data for determining allowances for companies that have newly entered the HFC import market, for example a company that entered the market or acquired another company late in 2019.

3. What is EPA's proposed framework for determining how many allowances each company receives?

This section discusses how EPA proposes to determine how many allowances each company receives from the general allocation pool. EPA is proposing that under this initial framework, the amount of allowances to allocate to producers and importers would be determined based on the levels of production and import in 2017–2019. Specifically, EPA is proposing to use a company's highest year of production or import, on an EVe basis, in those years. Every company's highest year amount would then be added together and used to determine a percentage market share for each company. EPA proposes to then multiply each company's percentage market share with the total amount of available calendar-year allowances to determine each company's production or consumption allowances. As noted earlier, EPA is proposing to establish this process as an initial approach to allocating allowances, but intends to revisit this procedure and consider whether any changes to it would be appropriate before the 2024 phasedown step.

EPA is proposing to choose the highest year over multiple recent years, rather than an average or a single year, to account for fluctuations in the market. As noted in the previous section, EPA is proposing to base the allocation amount on 2017–2019 data, but only companies who were actively producing or importing in 2020 would be eligible to receive allowances (unless EPA agrees that the company merits individualized determination based on comments received through this proposed rulemaking process). The Agency could also consider using a company's highest market share—a company's exchange value-weighted production and consumption relative to the total exchange value-weighted production and consumption in a given year—over the selected years.

As mentioned previously, EPA is proposing to set aside a small amount of allowances out of the total cap for new market entrants. As will be discussed in the next section, EPA is also proposing

to issue allowances for statutorily defined applications according to the AIM Act requirements outlined in subsection (e)(4)(B)(iv). Subsection (e)(2)(D) of the AIM Act ensures that the total amount of allowances issued does not exceed the production and consumption caps, even including application-specific allowances.[47] Therefore, the pool of available calendar-year allowances must be determined after the amounts for uses in subsection (e)(4)(B)(iv) are determined. These calculations would be conducted by EPA to protect company claims of CBI. EPA intends to issue allowances to individual companies for 2022 and release information on the amount of allowances allocated to each company publicly no later than October 1, 2021. EPA discusses its approach to releasing data in a later section of the proposal. EPA intends to issue allowances to individual companies for 2023 and release that information publicly no later than October 1, 2022. As discussed previously, EPA is proposing this annual process for allowance allocations from the general allowance pool because application-specific allowance figures may change, and those would need to be subtracted from the general pool before EPA determines how many allowances are remaining in the general pool to be allocated.

4. What is EPA's proposed framework for issuing allowances?

This section contains EPA's proposed formula for determining the amount of production and consumption allowances to be issued to each producer and importer.

First, EPA would multiply the production and consumption baselines by the current phasedown step shown in subsection (e)(2)(C) of the AIM Act. EPA is proposing to codify the phasedown steps shown in the table in (e)(2)(C) into the regulations at § 84.7. For 2022 and 2023, total production and consumption cannot exceed 90 percent of baseline. Thus, EPA would multiply each baseline by 0.9 to determine the production and consumption caps for those years.

Second, EPA would subtract from the consumption and production caps the amount of application-specific allowances that EPA has determined are necessary for the year at issue and the amount of allowances for the set aside pool, if EPA finalizes the set aside option proposed. As discussed in the next section, EPA is proposing to re-calculate the amount of application-specific allowances every year. The remainder is the general allowance pool for that year.

Third, EPA would determine the list of companies that meet the framework eligibility criteria for allowances, add up each company's EV-weighted high production and consumption amounts in the relevant years, and divide each company's high production and consumption amount by the total amount to determine what each company's market share would be.[48]

Fourth, EPA would multiply each producer or importer's market share by the general allowance pool to determine each company's calendar year production or consumption allocation amounts. For 2022 and 2023, EPA proposes to issue allowances in whole units of MTEVe. This could result in rounding issues. Any HFC with an exchange value more than 1,000 would be issued allowances at less than a kilogram of regulated substance. When deducting allowances to account for production or import, EPA would round up if the value was greater than or equal to 0.5 MTEVe and down if below that level. For example, HFC–134a has an exchange value of 1,430 and importing one kg would require 1.4 allowances. However, EPA would only deduct one allowance. Rarely is someone importing only one kg of a chemical though, so importing 100 kg of HFC–134a, for example, would require 143 allowances and no rounding is needed at the total tonnage level. EPA may revisit this approach if low-exchange value HFCs become more prevalent and greater precision is needed. For example, HFC–152a has an exchange value of 124 and thus the import of one kg would require expenditure of 0.1 allowances. EPA is taking comment on whether to use less or more granular detail for allowance allocations, such as issuing allowances out to one or two decimal points.

Lastly, EPA would then issue by October 1st the list of companies receiving production or consumption allowances and application-specific allowances as well as the quantities received.

For allowances for the 2022 calendar year, EPA intends to also issue allowances from the set aside pool (see section VI.E. of the preamble) by March 31, 2022, if finalized, and distribute any unused allowances from the set aside at the same time.

5. What process is EPA proposing to respond to requests for additional consumption allowances?

EPA is proposing a process in § 84.17 to allow a person to obtain consumption allowances equivalent to the quantity of newly produced (''virgin'') regulated substances that the person exported, provided that the substances were originally produced or imported with consumption allowances in the same calendar year. Given that the AIM Act excludes exports from the definition of ''consumption'' under subsection (b)(3), it would be consistent with the Act to essentially refund consumption allowances that were expended to import or produce regulated substances if those regulated substances were later exported from the country. In order to ensure that the statutorily defined production and consumption reduction targets are met each year, EPA proposes that both the export and the request for additional consumption allowances (RACA) must occur in the year in which consumption allowances were expended. This approach would prevent a producer or importer from over producing or importing high-GWP HFCs prior to January 1, 2022, and exporting them to gain additional allowances for the initial phasedown years.

EPA is proposing to require the exporter to submit certain information to EPA for the Agency to review before either granting or denying the request. This information is needed to verify that the regulated substances were in fact exported and would include: (i) The identities and addresses of the exporter and the recipient of the exports; (ii) the quantity (in kilograms) and names of regulated substances exported; (iii) the source of the regulated substances and the date purchased; (iv) the date on which, and the port from which, the regulated substances were exported from the United States or its territories; (v) the country to which the regulated substances were exported; (vi) a copy of the bill of lading and the invoice indicating the net quantity (in kilograms) of regulated substances shipped and documenting the sale of the regulated substances to the purchaser; and (vii) a written statement from the producer that the regulated substances were produced with expended allowances or a written statement from the importer that the

[47] Under the ODS phaseout, essential uses were exempt from the phaseout and were therefore in addition to the amounts allocated. Under the AIM Act, application-specific and essential use allocations are not exemptions from the cap but rather receive priority within the cap. In this NPRM, EPA is not proposing to issue essential use allocations.

[48] If EPA finalizes an approach where it uses each company's highest market share instead of highest production and consumption level, the Agency would add up each company's high production and consumption market share in the relevant years, and divide each company's high production and consumption market share by the total amount to determine what each company's revised market share would be for allowances available in the year.

regulated substances were imported with expended allowances. The full list of required information in a request for additional consumption allowances can be found at § 84.17. EPA is seeking comment on whether additional records should be provided to verify allowances were expended as part of the request, at least until the proposed certification ID tracking system is established.

C. What are EPA's proposals for the sectors to receive application-specific allowances?

This section discusses EPA's proposal to implement subsection (e)(4)(B)(iv) of the AIM Act, which directs the Administrator to allocate allowances necessary to meet HFC demand for six specified end uses, or ''applications.'' The Act directs EPA to issue ''the full quantity of allowances necessary, based on projected, current, and historical trends.'' The Act also includes a limitation on application-specific allowances in subsection (e)(4)(B)(iii). This provision reinforces the requirement in subsection (e)(2)(A) that a person receiving an allocation may not produce or consume a quantity of regulated substances that exceeds the number of allowances held by them. Further, this reinforces that application-specific allowances are to be part of the annual production and consumption caps.

In order to carry out this statutory direction, EPA is proposing to create a third category of allowances called ''application-specific allowances'' that can be expended to either produce or import HFCs. EPA is proposing to create this third category, and permit the allowance to be used for either produced or imported HFCs, because manufacturers of products in the statutorily identified applications may not know in advance how HFCs will be procured, and EPA wants to promote flexibility to ensure that end users receive the ''full quantity of allowances necessary.'' In order to ensure that these application-specific allowances are provided from within the overall annual production and consumption caps, EPA proposes to subtract the amount of application-specific allowances allocated from both the production and consumption general allowance pools.

This section provides an overview of the applications receiving allocations, estimated demand for HFCs in these applications in 2022, and EPA's proposed process for issuing and transferring allowances for these applications.

1. Overview of the Application-Specific Sectors

The AIM Act lists six applications in subsection (e)(4)(B)(iv) that are to receive the full quantity of allowances needed, based on projected, current, and historical trends. As part of the docket to the NODA that preceded this proposed rule, EPA released reports characterizing the Agency's current understanding of the market for five of the six applications (86 FR 9059; February 11, 2021). These reports provided data on projected, current, and historical trends for the use of HFCs in each sector. EPA received comments on four of the five reports (all except defense sprays) noting agreement with definitions, consideration of additional applications, and potential updated sources for projections of HFC use in certain applications. EPA has updated the reports based on the information provided in the comments, where applicable, and has included the updated reports in the docket to this rule. EPA held a broad stakeholder meeting on February 25, 2021, related to the AIM Act and the Agency's plans for implementation. EPA also held five workshops March 11–12, 2021, related to the AIM Act and focused on HFC use for the five applications that can receive allocations. Materials from the stakeholder meeting and the five workshops are included in the docket to this rule.

Metered Dose Inhalers

MDIs are handheld pressurized inhalation systems that deliver small, precisely measured therapeutic doses of medication directly to the airways of a patient. MDIs provide reliable and effective therapy for asthma and chronic obstructive pulmonary disease (COPD).

The pharmaceutical industry historically used CFCs, specifically CFC–11, CFC–12, and CFC–114, as a propellant. The pharmaceutical industry began introducing HFC propellants (also known as hydrofluoroalkanes (HFAs)) for MDIs as replacements for CFCs in the mid-1990s, specifically HFC–134a in 1996 followed by HFC–227ea in 2006. CFCs continued to be used after their phaseout in MDIs through the essential use exemption authorized by the CAA and the Montreal Protocol. EPA, along with interagency partners, annually assessed demand for CFCs in MDIs and the ability of the pharmaceutical industry to transition in order to nominate an exempted amount under the Montreal Protocol procedures. The United States stopped making annual requests for CFCs for MDIs in 2009. By 2014, the CFC MDI market was replaced with HFC MDIs and not-in-kind (NIK) medical inhalers. EPA estimates that in 2020, approximately 458 MT of HFC–134a and 78 MT of HFC–227ea propellant were contained in MDIs sold in the United States. EPA received comments to the market characterizations released with the NODA stating that the demand was twice what EPA estimates. The use of HFC MDIs in the United States, absent a transition to alternatives, is expected to continue as they may be more appropriate for certain patients than NIK medical inhalers, such as when the patient requires a reliever medication for exacerbations of asthma or other requirements (*e.g.,* inhalation strength).

Defense Sprays

Defense sprays are aerosol-based sprays intended for self-defense and include pepper spray and animal sprays. The defense spray industry historically used CFCs as a propellant. The defense spray industry transitioned to HFC propellants as replacements to CFCs in the mid-1990s, specifically HFC–134a.

EPA estimates that in 2020, approximately 125 MT of HFC–134a propellant was contained in defense sprays sold in the United States. The use of HFC–134a propellant in defense sprays in the United States, absent a transition to alternatives, is expected to continue due to its non-flammability and physical properties to provide adequate spray distance for foam, fog, and vapor defense sprays. Efforts to reformulate are underway but aerosol fillers report that alternatives have not yet reached their desired specifications.

EPA is proposing to interpret the AIM Act statutory text to mean that EPA provide an allocation for the propellant used in defense sprays. EPA is not aware of any other reasonable interpretation, but seeks comment on this. EPA's proposed definition states that these products use capsaicin and related capsaicinoids (derived from oleoresin capsicum) as an irritant. EPA is taking comment on whether this definition is inclusive of defense sprays potentially covered by subsection (e)(4)(B)(iv) of the AIM Act. One type of defense spray, bear spray, is designed to be more potent than pepper sprays designed for personal self-defense. EPA regulates bear spray as a pesticide, and requires labeling consistent with 40 CFR 156.70 for human hazards associated with a product. Labels for bear sprays often contain language on hazards to humans & domestic animals similar to the following statement: ''DANGER: May cause irreversible eye damage if sprayed in the eyes at close range.

Contact through touching or rubbing eyes may result in substantial but temporary eye injury. Strongly irritating to nose and skin. Do not get in eyes, on skin or on clothing. Wash thoroughly with soap and water after handling. Remove contaminated clothing and wash clothing before reuse.'' [49] Recent news reports indicate there may be use that is inconsistent with the label in the product (*i.e.,* use of bear spray on people instead of bears).[50] Bear sprays are not intended for use against people, and EPA lacks the authority to regulate or authorize such use under the Federal Insecticide, Fungicide and Rodenticide Act. EPA is taking comment on whether the Agency should distinguish between misuse and proper use when evaluating ''the full quantity of allowances necessary'' for such sprays.

Structural Composite Preformed Polyurethane Foam

Structural composite preformed polyurethane (PU) foams are used for increased structural integrity and weight reduction in marine and trailer applications. The structural composite foam industry historically used HCFCs as a foam blowing agent (*i.e.,* HCFC–22) and transitioned to HFC blowing agents as replacements for HCFCs in the early 2000s, specifically HFC–134a.

The PU foam and recreational boating industries estimate that in 2020, structural composite preformed PU foam for marine and trailer uses used approximately 28 MT of HFC–134a blowing agent. This specific use of HFC–134a blowing agent is expected to continue in the United States due to performance issues with alternatives (*e.g.,* lack of structural integrity, shrinking). However, it is projected that at some point HFC–134a blowing agent will no longer be used in structural composite PU foam for marine and trailer use as it is anticipated that alternatives will replace HFC–134a throughout the market.

EPA is proposing to interpret the statutory text to mean that EPA provide application-specific allocations for HFC blowing agent used to manufacture structural composite preformed polyurethane foam for use in manufacturing boats and trailers. EPA is not aware of any other reasonable interpretation, but seeks comment on this.

Semiconductors

The fourth listed application is ''the etching of semiconductor material or wafers and the cleaning of chemical vapor deposition chambers within the semiconductor manufacturing sector.''

Semiconductor devices are critical to the functioning of electronic equipment. Semiconductor manufacturers use a variety of high-GWP fluorinated gases, including HFCs, perfluorocarbons, and sulfur hexafluoride, in two main stems of the manufacturing process: Etching, also known as plasma etching, and to clean CVD chambers. Depending on the complexity of the product, the manufacturing process may require upwards of 100 steps utilizing high-GWP gases.

Semiconductor manufacture uses HFC–23, HFC–32, and HFC–41, primarily in etching processes, but also minimally in CVD chamber cleaning processes. HFC use in semiconductor manufacturing began in the mid-1980s.

EPA estimates that in 2019, semiconductor fabrication facilities in the United States used 43 MT of HFC–23, HFC–32, and HFC–41. Absent the uptake of alternatives or use of used HFCs that meet the acceptable purity levels, the use of HFCs in semiconductor manufacture is likely to continue as HFCs have physical properties that make them well suited for this use.

Mission-Critical Military End Uses

Mission-critical military end uses of HFCs are those uses by an agency of the Federal Government responsible for national defense which have a direct impact on mission capability as determined by the U.S. Department of Defense (DoD), including, but not limited to, uses necessary for development, testing, production, training, operation, and maintenance of Armed Forces vessels, aircraft, space systems, ground vehicles, amphibious vehicles, deployable/expeditionary support equipment, munitions, and command and control systems. Based on preliminary information, near-term annual EV-weighted use of HFCs in mission-critical military end uses is anticipated to be less than 2 MMTEVe.

On Board Aerospace Fire Suppression

EPA is proposing to define on board aerospace fire suppression as use of a regulated substance in fire suppression equipment used on board commercial and general aviation aircraft and space vehicles. This definition excludes military aircraft because they are already covered under the definition of mission-critical military end uses. On board commercial aviation fire suppression systems have historically used halons and are installed on mainline and regional passenger and freighter aircraft to protect valuable and sensitive assets. Fire suppression systems on board aircraft can be divided into two main product categories: Total flooding systems and streaming applications; currently HFC–236fa and HFC–227ea have replaced halon 1301 in total flooding systems in lavatory trash receptacles. Due to weight and volume restrictions or penalties (*e.g.,* increased fuel consumption), HFCs have not been popularized in other fire suppression systems on board aircraft. HFCs have replaced halon 1301 lavatory trash receptacle fire suppression systems in new and existing commercial aircraft. EPA estimates that in 2020, approximately 0.38 MT of HFC–227ea and 0.30 MT of HFC–236fa were installed in new aircraft lavatory fire suppression systems. Absent transition to use of alternatives or of used HFCs, the use of HFCs in lavatory fire suppression systems is expected to continue as new aircraft are sold.

EPA has previously defined ''space vehicle'' under the Title VI regulations at 40 CFR 82.62 as ''a man-made device, either manned or unmanned, designed for operation beyond earth's atmosphere. This definition includes integral equipment such as models, mock-ups, prototypes, molds, jigs, tooling, hardware jackets, and test coupons. Also included is auxiliary equipment associated with test, transport, and storage, which through contamination can compromise the space vehicle performance.'' EPA takes comment on whether space vehicle, as defined above, is inclusive of applications that would be considered as on board fire suppression. EPA requests relevant information on HFC use in these applications.

2. At which point in the application-specific sector production process is EPA proposing to issue allowances?

EPA is requesting comment on which entity should be the recipient of application-specific allocations. The Act does not specify who should be issued these allowances so the Agency has considered allocating either directly to the entity manufacturing the product listed in the application (end user) or to the producer or importer who supplies the bulk HFC to that entity.

EPA is proposing to issue application-specific allowances to the end user of the HFC who is manufacturing the product listed in subsection (e)(4)(B)(iv)

[49] Labeling Notification per Pesticide Registration Notice (PRN) 2007–4, dated July 3, 2019. Available at *https://www3.epa.gov/pesticides/chem_search/ppls/072265-00001-20190703.pdf.*

[50] Briley, John. ''Bear Spray Is Showing up at Protests and Riots. Here's Why, and How It Affects Humans.'' *The Washington Post,* 19 Mar. 2021, *www.washingtonpost.com/lifestyle/wellness/bear-spray-pepper-riot-dangerous/2021/03/19/053c3870-87fb-11eb-bfdf-4d36dab83a6d_story.html.*

of the Act or the Department of Defense, in the case of mission-critical military end uses. EPA has experience under the essential use exemption, as implemented under Title VI of the CAA, with issuing allowances directly to end users. In that instance, EPA issued essential use allowances directly to MDI manufacturers, for example, who then conferred those allowances to a company for the production or import of a specified regulated substance. One advantage of this system was that it ensured that those companies manufacturing MDIs had the allowances needed and they could choose which producer or importer they would confer their allowances to. This allowed the MDI manufacturers to have power to make a competitive choice in a more open market for the material and price best suited to their needs, or import the material directly themselves. Another advantage was that it helped to ensure that the allowances would be expended only for an essential use. Because EPA has seen these advantages in its past practice, EPA is proposing to use this established process for the application-specific allocations. In other words, EPA is proposing to issue application-specific allocations to the end users for the six statutorily listed applications.[51]

One challenge EPA foresees in issuing application-specific allowances to end users is identifying all of the end users. Essential use allowances were issued by EPA to companies that had submitted applications to the Agency. EPA attempted to identify all of the end users for each of the applications listed in subsection (e)(4)(B)(iv) of the Act and put this understanding of the market in the characterization reports contained in the docket for the NODA. Through its NODA, EPA invited potentially affected entities to provide EPA with further information or point to existing or suspected data gaps. EPA also held five workshops March 11–12, 2021, related to the AIM Act and focused on HFC use for five of the six applications (not including mission-critical military end uses) that can receive allocations. Materials from the five workshops are included in the docket to this rule. EPA still through this proposed rulemaking welcomes information on whether this is a complete listing of companies. Acknowledging the potential limits on its knowledge, EPA also recognizes that it will need to provide application-specific allowances on a certain schedule, and so proposes to limit the application-specific allocation to 2022 for those companies that EPA is aware of by the close of the comment period listed above in the **DATES** section of this preamble. In a subsequent section, ''*What is EPA's Proposed Set Aside Pool of Allowances,*'' EPA outlines its proposed approaches for setting aside additional allowances in the event that other end users are identified after the finalization of the rule. EPA recognizes that the preferred approach may vary by application depending upon the current methods for acquiring HFCs. EPA specifically requests comment from end users in these applications and the suppliers of those HFCs.

3. How is EPA proposing to address transfers of application-specific allowances?

EPA is proposing to allow limited transfer of application-specific allowances. Specifically, end users within a specific application may transfer their allowances only with another end user that will use the application-specific allocation for that same application. These could be viewed as ''intra-application transfers.'' EPA is proposing to prohibit transfers with companies in other applications. Section (e)(4)(B)(iv) of the AIM Act states that application-specific allowances are provided ''for the exclusive use'' of HFCs ''in an application solely for'' those in the statutory list. These transfer provisions would help to ensure that, after EPA allocates the full quantity of allowances necessary for each application, the full quantity stays available to fully supply that application and ensure that the application-specific allowances are being exclusively used solely for one of the six listed applications. EPA takes comment on this proposed approach, which seems consistent with Congress's intent in creating this application-specific allocation program.

EPA is similarly proposing to prohibit the transfer of application-specific allowances back into the larger market for production and consumption allowances. The AIM Act specifies that the allocation is for the exclusive use of one of the listed applications. It follows that an application-specific allocation could not be transferred to produce or import HFCs for a use that was not enumerated. Note that there is no restriction on a company who uses HFCs in one of the listed applications from acquiring calendar-year allowances from the general pool or from purchasing HFCs produced or imported with calendar-year production and consumption allowances. In other words, any company that uses HFCs in one of the six listed applications has several avenues for acquiring HFCs, for example if their actual demand exceeds the amount of HFCs covered by their application-specific allowances.

EPA is proposing similar restrictions to the sale of HFCs acquired by expending application-specific allowances. If an application-specific allowance was expended for the production or import of a regulated substance, that substance must be used solely for the application it was produced or imported for. EPA is therefore proposing to also prohibit the sale of that HFC for use in a different application from the one that was intended. This would be an outgrowth of the statutory restriction placed on application-specific allowances that they be for the exclusive use in the application for which the allowance is provided. If an entity could procure HFCs with the application-specific allowance, but then freely sell that HFC on the open market, that would seem to create a loophole to the restriction placed on the use of the application-specific allowance. EPA is proposing to allow the intra-application sale of material (*i.e.,* amongst companies within the same application), since such intra-application sale would be consistent with the exclusive use limitation. EPA requests comment on the described approach for allowances and HFCs acquired with those allowances.

4. What are the criteria EPA is proposing to use for evaluating application-specific allowance requests?

As discussed in section IX.D, EPA is proposing to collect information from companies who use HFCs in five of the six applications listed in the AIM Act. As noted previously, companies who believe they qualify for application-specific allowances should provide data on their historical and current use of HFCs in the relevant application to EPA by the date the comment period closes on this proposed rule. This information should also include a detailed description of how the HFCs are used so EPA can determine whether the use is consistent with the definition of the application. EPA will use that information to determine the full quantity of allowances necessary, based on projected, current, and historical trends, for the production or consumption of HFCs for the exclusive use of the regulated substance for each application, on a company-specific

[51] For the purposes of clarity and consistency, any reference or mention of EPA issuing application-specific allowances in this proposed rulemaking to the end user of the HFC who is manufacturing the product excludes mission-critical military end uses. Instead, as noted earlier, EPA proposes to directly allocate application-specific allowances to the Department of Defense for mission-critical military end uses.

basis. For the initial five years after enactment of the AIM Act, EPA is proposing to base application-specific allowances on the eligible amount of HFCs used by each company requesting such allowances based on the higher of the two approaches:

—HFC use by the company in the specific application in the prior year multiplied by the average growth rate of use for the company over the past three years; or

—HFC use by the company in the specific application in the prior year multiplied by the average growth rate of use by all companies requesting that type of application-specific allowances (*e.g.,* for MDIs) over the past three years.

EPA is seeking comment on whether the gross domestic product or U.S. population growth rates would be appropriate for each of the applications, and whether EPA should allow for consideration of individual circumstances factually documented to the Agency (*e.g.,* when a company projects significant growth due to acquiring another company). EPA could also factor in the availability of reclaimed HFCs (if suitable), inventory of previously produced and imported HFCs, availability of alternatives, or other relevant features. EPA seeks comment on this proposed approach and other approaches it could adopt to allocate the amount of allowances necessary for each of the applications specified in subsection (e)(4)(B)(iv) of the Act. EPA also proposes that if future information reveals a company applying for application-specific allowances has provided false information, EPA reserves the right to revoke allowances, require future retirement of allowances at a greater level than the number of application-specific allowances allocated, prohibit companies from receiving future allowances if there is noncompliance with relevant legal and regulatory requirements, and pursue any other appropriate enforcement action.

D. What are EPA's proposed provisions for transferring allowances?

Subsection (g) of the AIM Act directs EPA to issue rules that govern the transfer of production and consumption allowances. EPA is proposing to establish transfer provisions in § 84.19 that are based in large part on the ODS transfer provisions.

EPA is proposing to require that the transferor must submit to the Administrator a transfer claim setting forth the following: The identities and contact information of the transferor and the transferee; the type of allowances being transferred (*i.e.,* production or consumption allowance); the quantity (in EVe) of allowances being transferred; the total cost of allowances transferred; the remaining quantity of allowances held by the transferor; and the quantity of the offset. For transfers of allowances issued for use in one of the applications listed in AIM Act subsection (e)(4)(B)(iv), the transferor must also include a signed document from the transferee certifying that HFCs produced or imported with these allowances will only be used for the same application they were initially allocated for.

EPA would then certify with records in its possession that the transferor has unexpended allowances sufficient to cover the transfer claim. Within three working days of receiving a complete transfer claim, EPA intends to issue either an objection letter or non-objection letter to the transferor and transferee. The transfer cannot proceed until EPA issues a non-objection notice. Given reporting to the Agency is often after the fact for quarterly activity, EPA is also proposing that if after issuance of a non-objection notice the Agency finds that the transferor did not have sufficient unexpended allowances to cover the claim, the transferor and transferee, where applicable, will be held liable for any violations of the regulations of this subpart that occur as a result of, or in conjunction with, the improper transfer.

In cases where EPA issues an objection notice disallowing the transfer, either transferor or transferee may file a notice of appeal, with supporting reasons, with the relevant Agency official within 10 working days after receipt of notification that a transfer was disallowed. The official may affirm or vacate the disallowance. If no appeal is filed electronically by the tenth working day after notification, the disallowance shall be final on that day.

EPA does not intend to broker transactions but rather solely confirm that the transferor has sufficient allowances to cover the transfer. EPA also proposes to collect information on the price of allowances transferred to inform future analyses of rule costs and provide additional insight into the market when assessing potential regulatory changes and future allocation options.

Additionally, subsection (g)(2) of the Act requires that the regulations ''ensure that the transfers under this subsection will result in greater total reductions'' in the production or consumption ''of regulated substances in each year than would occur during the year in the absence of the transfers.'' In other words, the transfer of allowances must result in less overall production or consumption than would have occurred absent the transfer. The AIM Act also specifies that, for transfers between two or more persons, the transferor's allowances be reduced by an amount greater than the amount of allowances being transferred.

EPA is proposing to allow transfers of allowances for HFCs provided the transferor's remaining allowances are reduced by the amount it transferred plus some percentage of the amount transferred (*i.e.,* an offset). EPA is proposing that the offset be five percent, and is taking comment on a range from one percent to 10 percent. A five percent offset would meet the AIM Act statutory directive and provide a net environmental benefit without discouraging trading necessary to meet market demands.

EPA analyzed HCFC inter-company transfer data for 2010 through 2018. The amount of consumption allowances transferred each year ranged between five percent and thirty percent of the total number of allowances allocated. Thus, a five percent offset would result in a reduction in the total allowances in the general pool by 0.25 percent to 1.5 percent. Given that small size, EPA's consideration for the size of the offset, at this time, pertains more to the effect on an individual company and less on the impact to the market overall. As the phasedown progresses, EPA may revisit the size of the offset.

EPA is considering and taking comment on an offset as low as one percent and as high as 10 percent. EPA is less inclined to use an offset as low as one percent because it would result in the least environmental benefit of the proposed options. EPA anticipates that the transaction costs resulting from a one percent offset would be minimal. Under the class I ODS allowance system, EPA required through rulemaking an offset of one percent for any U.S. transfer to achieve the reductions in production and consumption required for transfers by section 607 of the CAA (60 FR 24970, May 10, 1995). However, the phaseout of HCFCs included chemical-specific allowances and required a company to exchange allowances for one specific HCFC for another specific HCFC (See 68 FR 2820, January 21, 2003). In this rulemaking, EPA is proposing to issue allowances on an exchange value-weighted basis, which would provide allowance holders with the flexibility to determine which HFCs to produce or import without needing to make a transfer from one HFC to another HFC. In other words, the Agency is proposing to structure the HFC allocation program

in a way that negates the need to transfer allowances between regulated substances, and thus EPA anticipates fewer transfers overall than would occur under a chemical-specific phasedown schedule. EPA is also considering an offset amount as high as 10 percent to be more protective of the environment. This level of offset, however, could discourage transfers, resulting in less efficient allocation of production and consumption allowances. On the other hand, it may encourage the recovery and reclamation of HFCs.

EPA seeks comment on setting the offset at five percent and is also seeking comment on the full range presented. While numerically all the percentages would result in a greater total reduction, EPA is specifically seeking comment on how to balance the statute's intent of providing flexibility through transfers yet doing so in a manner that further reduces overall production and consumption, which would result in greater environmental protection. This proposal seeks to maximize the protection of the environment, while also providing for the ability to transfer allowances. However, it may be the case that tolling agreements, the fact that most HFCs are used in blends, or other factors result in market dynamics for HFC production and import that EPA has not considered. Evidence supported by data of harm to the market for HFCs or consumer access could be compelling to the Agency.

EPA is proposing that an offset would apply to all transfers of allowances under the AIM Act, including transfers of application-specific allowances, as subsection (g) appears to apply generally to transfers of allowances and does not exempt any allowances from its requirements. However, EPA is proposing a one percent offset, but is seeking comment on whether a lower offset amount in a range of 0.1 percent to one percent is more appropriate for the transfer of application-specific allowances between companies in a particular application. Since the AIM Act states that EPA should provide allowances under subsection (e)(4)(B)(iv) of the Act at the levels necessary for the statutorily listed applications, a lower transfer offset level may be more consistent with the intent of that subsection of the AIM Act.

Note that EPA is proposing that an application-specific allowance holder could confer their allowances to an importer or producer, who would procure the HFC for the end user, without any offset. EPA does not consider the conferral of allowances to be a transfer but rather an actualization of the allowance by an end user that is not a producer or importer. Because Congress made clear in subsection (e)(4)(B)(iv) of the Act that the statutorily listed applications should receive the amount of allowances necessary, based on projected, current, and historical trends, EPA is proposing to allow these conferrals as part of the inherent process of ensuring end users can receive the necessary amount of HFCs. As discussed previously, EPA is proposing to define the term ''confer,'' to distinguish the concept from ''transfer.''

EPA welcomes comments on the proposed size of the offset, the Agency's assumptions about the likely amount of transfers, and the treatment of transfer of allowances issued under subsection (e)(4)(B)(iv). EPA seeks comment in a later section of this proposal on the applicability of subsection (g) to international transfers.

E. What is EPA's proposed set aside pool of allowances?

As explained previously, it is reasonable for this initial allocation period to largely allocate allowances based on companies' practice in the market since 2017, but EPA also acknowledges that this approach could exclude companies that have historic practice in the HFC market that is not reflected in EPA's existing data and could create a market barrier to new market entrants. As a potential way to avoid these problems, in addition to the allocation framework and procedure outlined in the prior sections, EPA is also proposing to establish a single set aside pool of consumption and production allowances. The set aside pool as proposed would be available to three groups of companies: (1) End users in applications identified for allocations under subsection (e)(4)(B)(iv) of the AIM Act that EPA has not recognized in the initial allocation of allowances (*i.e.,* the allocation called for by October 1, 2021); (2) importers of HFCs in 2017 through 2019 that have not been required to report through the GHGRP under 40 CFR part 98, where EPA does not learn of their past imports in time to issue allowances as part of the general pool despite the Agency's best efforts; and (3) importers that are new market entrants. EPA is proposing that the set aside pool would not be open to companies looking to newly enter as producers of HFCs because the Agency does not wish to encourage the construction of new HFC production capacity.

EPA proposes to give priority access to the set aside pool to end users in the applications identified in subsection (e)(4)(B)(iv) of the Act. EPA acknowledges that not all end users may be aware of EPA's regulatory activity in the HFC space, and providing access to the proposed set aside pool would ensure end users in the statutorily identified applications have the allowances necessary for their continued business. EPA proposes to issue allowances to these end users only for 2022, recognizing that once aware of the requirements these entities will be able to apply for 2023 in the same manner as all other application-specific allowance holders.

After allowances are provided to the (e)(4)(B)(iv) of the Act identified applications, EPA would provide allowances from the same set aside pool to importers that were not previously required to report to GHGRP and were not identified in time to be included in the general allowance pool. EPA is not including producers in this stage because all HFC producers were required to report to the GHGRP. EPA proposes to issue allowances to these previously unidentified importers only for 2022. EPA's expectation would be that once these importers came into the allocation system, these entities will have provided sufficient information to receive allocations through the general pool for 2023.

Finally, EPA is proposing to issue remaining allowances to new market entrants seeking to import HFCs in line with the criteria outlined later in this subsection. EPA is proposing to provide allowances for these new market entrants for both 2022 and 2023. EPA proposes to issue the new market entrants allowances for 2022 and 2023 at the same time in the same quantity for both years. As noted elsewhere in this proposal, EPA intends to revisit the overall process for allocating allowances for all years past 2024, but would generally expect these new market entrants to be able to participate the same as historic importers in those later future years.

EPA acknowledges that creating a set aside pool for new market entrants would deviate from historic regulatory practice under CAA Title VI, but given that the AIM Act outlines a phasedown, but not phaseout, of HFC production and consumption in the United States, in this instance it may be appropriate to continue to facilitate participation by new market entrants in the HFC import business. EPA further proposes to have this set aside pool accessible only to businesses that meet the Small Business Administration (SBA) criteria for a small business.[52] During the HCFC

[52] A small business is principally defined and determined based on size standards as established by the SBA. The size of a small business is defined

phaseout, EPA heard from some small businesses that they had been unable to source material from domestic suppliers in sufficient quantity and/or at a competitive price. EPA's proposal would allow small businesses experiencing this challenge to request allowances as a new market entrant and import HFCs directly.

If the set aside program is established as outlined in this proposal, EPA specifically encourages businesses to apply for set aside allowances that may have had particular challenges entering the HFC import market due to systemic racism, market-access barriers, or other challenges particularly faced by small disadvantaged businesses such as minority- and woman-owned small businesses. EPA is mindful of the Executive Order on Tackling the Climate Crisis at Home and Abroad (E.O. 14008), which calls for ''undertaking robust actions to mitigate climate change'' and ''developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts. . . .'' (86 FR 7619). EPA conducted a preliminary review of HFC importers and HCFC allowance holders (available in the docket). EPA is specifically soliciting comment on whether any individuals have experienced structural barriers inhibiting their earlier access to the HFC import market, including if there was difficulty entering the HFC import market based on criteria such as business location, employment of socially or economically disadvantaged individuals, or other criteria related to business ownership, employee characterization, or business location. The Agency is concerned that certain businesses historically have and could continue to experience difficulty entering the HFC market due to societal problems, such as systemic racism or sexism, and the Agency is interested in collecting the information requested in this paragraph to better understand whether such issues are affecting entry into this market and to explore future opportunities to ensure a more equitable marketplace.

EPA has reviewed data available to the Agency and determined that of the companies that imported HFCs between 2011–2013, eight companies were no longer importing HFCs by 2017–2019. It is possible some of these companies were still importing under a different name. Nineteen companies reported imports of HFCs in 2017–2019 that were not importing HFCs in 2011–2013. Again, it is possible that some companies changed names, which would reduce this number. With the exceptions of companies that were reporting under a different name, EPA would generally view these nineteen companies as new market entrants. If EPA establishes a set aside allowance pool, it would be appropriate to establish a pool that roughly estimates the market shifts EPA has seen over this timeframe with additional allowances to accommodate for businesses that would have met EPA's criteria to be eligible for general or application-specific allowances, but were not identified in time. Accordingly, EPA is proposing to establish a set aside pool for new HFC importers of a total of five MMTEVe of consumption allowances for 2022, but is considering a range up to 15 MMTEVe. Because application-specific allowances can also function as production allowances, EPA is proposing to set aside one MMTEVe of production allowances as well. Because EPA anticipates the application-specific end users to be a smaller group than the other two groups, EPA is proposing a smaller set aside amount. EPA specifically invites comments on the size of the set aside for consumption and production allowances.

As noted previously, EPA proposes that priority access would be given to end users that would have been eligible for application-specific allowances. Such end users would be given an allocation equal to what EPA determines that end user would need. For the other applicants to the set aside pool, EPA proposes that each would be eligible for up to 0.2 MMTEVe in allowances. This value is based on the aggregated median quantity of AIM Act-regulated HFC imports (highest of 2017–2019 for ''new'' importers that did not also import in 2011–2013) reported to the GHGRP and scaled based on a common HFC blend, in $MMTCO_2e$. EPA seeks comment on whether it should finalize a higher limit for companies other than those seeking application-specific allowances, up to one MMTEVe.

If there are more applicants for allowances than EPA has set aside, EPA proposes to reduce each new market entrant applicant's share on a pro rata basis. EPA proposes that allowances received by applicants to the set aside pool would be nontransferable because this is the best way to ensure that applicants to the set aside pool only request allowances they are able to use, and do not simply participate in the pool in order to sell the allowances on the open market. If there are fewer applicants for allowances such that 2022 allowances remain in the pool, EPA proposes to redistribute them to the general pool of existing allowance holders on a pro rata basis by March 31, 2022. Alternatively, EPA could auction the remaining allowances by March 31, 2022, should it finalize this proposed set aside. An auction would promote a more dynamic market in which companies could choose to participate if they are seeing additional demand for allowances than they were allocated, and an auction allows companies to purchase allowances based on what the allowance is worth to the company.

EPA is proposing that companies would have until November 30, 2021, to apply to the set aside pool. For entities that fall within the six statutorily identified applications in subsection (e)(4)(B)(iv), but did not initially receive application-specific allowances from EPA, they would apply to EPA in the same manner as they would for the application-specific allowances. For all other applicants, in order to apply to the set aside pool, EPA proposes that businesses would need to demonstrate that they have the ability and intention to enter the HFC import market. Specifically, EPA proposes to require applicants to the pool to submit an application showing: (1) Name and address of the company and the complete ownership of the company (with percentages of ownership); (2) whether the company is a woman or minority owned business; (3) contact information for the owner of the company; (4) the date of incorporation and State in which the company is incorporated and State license identifier; (5) a plan for importing HFCs; and (6) a prospective foreign exporter that the applicant anticipates working with. EPA recognizes that this new entrants pool, if not structured appropriately, could result in allowances going to companies that are already importing HFCs or are associated with companies that currently import HFCs. To prevent fraud and to ensure that these allowances go to new entrants in the HFC import business, EPA seeks comment on whether there are other data it should

by either the average number of employees over the past 12 months or the average annual receipts over the past three years and may vary based on a business's economic activity, or industry, under the North American Industry Classification System (NAICS). SBA further defines a small business as a for-profit business of any legal structure, independently owned and operated, not nationally dominant in its field, and physically located and operated in the United States or its territories (13 CFR part 121). *https://ecfr.federalregister.gov/current/title-13/chapter-I/part-121.*

request. EPA also proposes to limit the set aside to owners of companies, not operators or designated agents, and that businesses applying to the set aside pool cannot be a subsidiary of or have any common ownership stake or familial relationship with another allowance holder. EPA also seeks comment on whether it should limit new entrants to companies that have not previously imported HFCs. Given the focus of the set aside is to allow for companies that seek to newly import HFCs, providing allowances to companies who exited the import business seems at odds with the general goal of the set aside. If the set aside pool is limited to small businesses, applicants would also need documentation demonstrating that they meet the SBA criteria for a small business. EPA is soliciting comment on this list and invites public input on whether any of these items should not be included or if other elements should be added. EPA proposes that it would review the information provided, conduct follow-up verification as needed, and issue allowances to applicants that meet the stated program criteria no later than March 31, 2022. EPA also proposes that if future information reveals a company has provided false information or has not disclosed financial or familial relationships between a new entrant and another allowance holder, EPA reserves the right to revoke allowances and require the company to retire a greater number of allowances than those received through the set aside pool.

F. What is EPA proposing to require for HFC–23 emission controls for allowance holders?

As outlined in the definition section, EPA is proposing that the creation of a regulated substance beyond insignificant quantities inadvertently or coincidentally created in three specific circumstances would be considered ''production.'' As explained in an earlier portion of this section, EPA is proposing that such production, whether intentional or unintentional, would generally require expenditure of production and consumption allowances unless the regulated substance is timely destroyed. In this subsection, EPA is outlining a narrowing of this general approach particular to HFC–23. Specifically, EPA is proposing that HFC–23 must be captured and controlled to a specific standard outlined later in this subsection. Entities could either destroy the HFC–23 or expend production and consumption allowances to capture, refine, and sell it for consumptive uses.

As noted at the start of this section, the AIM Act provides EPA with significant discretion in how to establish an allowance allocation system. EPA is proposing to exercise this significant discretion to only allow production and consumption allowances to be expended for HFC–23 if the HFC–23 is refined and sold for consumptive uses, such as in semiconductor etching or refrigeration at very low temperatures. EPA understands that currently, some HFC–23 is unintentionally created as a byproduct in chemical production processes and vented to the atmosphere.[53] EPA proposes that allowances created through the AIM Act cannot be expended for HFC–23 that is vented. An entity that creates HFC–23 would need to capture the HFC–23 and could either (1) expend production and consumption allowances to sell that HFC–23 for consumptive uses or (2) destroy the captured HFC–23 using a technology approved by the Administrator.

In the alternative, if EPA does not finalize the definition of production as proposed, or does not finalize the requirements around the exemption from expending allowances for production if regulated substances are timely destroyed, EPA proposes to use the significant discretion provided in the AIM Act to require that, in order to be eligible to receive production allowances under the system created through this rulemaking, companies must control, capture, and/or destroy HFC–23 byproduct that is created at facilities that produce regulated substances and that would otherwise be emitted to a specific standard outlined later in this subsection.

As further support for both EPA's main and alternative proposed approaches to addressing HFC–23, EPA notes that HFC–23 is a regulated substance under the AIM Act. In the Congressionally provided table in subsection (c) of the Act, HFC–23 is assigned the highest exchange value of any regulated substance of 14,800, indicating that Congress was well aware of the potential impact of this substance and intended for it to be regulated on that basis. This exchange value is almost 5,000 more than the next closest regulated substance (HFC–236fa at 9,810). EPA has data available through the GHGRP indicating that there are emissions of HFC–23 at fewer than four facilities in the country that produce other HFCs controlled by the AIM Act.[54] Because existing data suggests that absent control, there may be significant emissions of HFC–23 at facilities that produce regulated substances under the AIM Act, the AIM Act does not prevent a new entrant from producing HFCs if they have the necessary allowances, and because HFC–23 has a significantly higher exchange value than any other regulated substance under the AIM Act, EPA is proposing to require that an entity that creates HFC–23 would need to capture the HFC–23 and could either (1) expend production and consumption allowances to sell that HFC–23 for consumptive uses or (2) destroy the captured HFC–23 using a technology approved by the Administrator. Specifically, EPA is proposing that, no later than October 1, 2022, as compared with the amount of chemical intentionally produced on a facility line, no more than 0.1 percent of HFC–23 created on the line may be emitted. The HFC–23 must be destroyed using a technology approved by EPA as outlined in section VII.B. of this rulemaking and 40 CFR 84.29(b). As explained further in the supporting documentation provided in the docket, EPA is aware that these facilities are already taking steps to control, capture, and/or destroy their HFC–23 emissions and that current information suggests that some facilities are controlling HFC–23 emissions to the proposed 0.1 percent standard or lower. EPA is also aware of continuous improvement projects underway to limit HFC–23 emissions at these facilities. Since some facilities have already achieved this standard, EPA is proposing that it is reasonable to require facilities to meet this standard. EPA acknowledges that some facilities may need to install and calibrate new equipment in order to meet this standard, and therefore is proposing a compliance date of October 1, 2022.

EPA recognizes that individual circumstances could arise that make it impossible for an individual facility to install necessary controls by October 1, 2022. Therefore, for companies that can demonstrate to EPA that at the relevant facilities, they have taken concrete steps to start to improve their HFC–23 control, capture, and destruction (such as purchase and installation of necessary equipment), are reporting

[53] See, *e.g.,* ''Fluorinated Greenhouse Gas Emissions and Supplies Reported to the GHGRP.'' *Epa.gov,* Environmental Protection Agency, 24 Feb. 2021, *www.epa.gov/ghgreporting/fluorinated-greenhouse-gas-emissions-and-supplies-reported-ghgrp#production.*

[54] There are also reported emissions from other sources including from the production of HCFC–22 regulated under CAA Title VI. If EPA were to finalize under the alternative interpretation proposed, EPA intends to take separate action to address HFC–23 byproduct emissions from HCFC production.

under GHGRP, and provide information to EPA regarding their plans to meet the 0.1 percent HFC–23 emissions limit, EPA proposes that the Agency may grant a six-month deferral, subject to a one-time additional six-month extension. Alternatively, EPA is taking comment (in addition to taking comment on all proposals in this section) on whether the Agency should grant a one-time, one-year deferral with no possible extension. Under either method, companies would need to request such a deferral by August 1, 2022. EPA proposes to make a determination on an application within 30 days based on whether the company has demonstrated good faith efforts to comply with the HFC–23 emissions reduction requirement, there are reasons that have necessitated compliance deferral, and there are clear plans for the company to come into full compliance by the deferred date. EPA intends to publicly announce any compliance deferrals granted under this process.

EPA understands that destruction of HFC–23 may occur both at the facility where it is generated (on-site) and may also occur off-site at another facility, which may or may not be owned by the same corporate entity. In instances where HFC–23 is destroyed off-site, EPA proposes that the transportation to and destruction at the off-site facility would be considered in calculating compliance with the 0.1 percent emissions standard.

VII. What other elements of the AIM Act is EPA addressing in this proposed rulemaking?

A. How is EPA proposing to address international trades or transfers of HFC allowances?

Subsection (j) of the AIM Act, titled ''International Cooperation,'' addresses the trade or transfer of production allowances between entities in the United States and foreign countries.[55] To implement this subsection, EPA must determine whether a country has ''enacted or otherwise established . . . the same or similar requirements or otherwise undertaken commitments regarding the production and consumption of regulated substances as are contained in'' the AIM Act. Under subsection (j)(4), EPA is required to promulgate a rule carrying out this subsection by December 27, 2021, and to review that rule at least annually and, if necessary, revise it.[56]

The statute uses the terms ''trade'' and ''transfer'' with respect to allowances in many parts of both subsections (g) and (j). While EPA has considered whether Congress intended ''trade'' and ''transfer'' to signify different actions with respect to allowances in these provisions, neither term is defined in the AIM Act and EPA cannot discern a consistent difference in how the terms are used in this context. EPA is therefore proposing to interpret them as being used interchangeably.

In most instances, subsections (g) and (j) use ''transfer'' (either exclusively or alongside the term ''trade'') to describe the exchange of allowances between two entities. Subsection (j) uses the phrase ''trade or transfer'' throughout the subsection. However, (j)(2) and (3) exclusively use ''transfers'' in the paragraph titles, while using both ''trade or transfer'' and ''transfer'' in the text of both paragraphs. For example, (j)(2) permits the ''trade or transfer of a production allowance . . . if, at the time of the transfer'' certain conditions are met. There is one instance in subsection (g)(2)(C) where the AIM Act references trade alone in requiring that EPA's rule provide for ''the trading of consumption allowances in the same manner as is applicable [for] the trading of production allowances.'' In all other places in subsection (g), the term ''transfer'' is used exclusively, for example in (g)(1), which requires EPA to issue a rule that ''governs the transfer of [production] allowances.'' As Congress uses the term ''transfer'' more frequently when only one term appears in subsections (g) or (j), EPA is proposing that it would be appropriate to use the term ''transfer'' in the AIM Act implementing regulations for all instances where the AIM Act contemplates ''trades'' or ''transfers.'' Hereinafter, EPA refers to ''trade or transfer'' as used in subsection (j) of the AIM Act as ''transfers'' for simplicity.

International transfers of production allowances allow for the production of a chemical to be consolidated at fewer plants in order to be able to achieve economies of scale as demand shrinks and the HFC phasedown progresses. EPA proposes to allow such production transfers where the requirements of the AIM Act are met.

In relevant part, subsection (j)(1) of the Act prohibits any company subject to the AIM Act's requirements from transferring a production allowance to a company in a foreign country that, as determined by EPA, has not established the same or similar requirements within a reasonable time from the Act's enactment or otherwise undertaken commitments regarding the production and consumption of HFCs as are contained in the Act. Subsection (j)(2) describes specific conditions that must be satisfied for a company in the United States to transfer a production allowance to—or from—a company in a foreign country. Such a transfer to a company in a foreign country may occur if at the time of the transfer EPA revises the number of production allowances for the United States so that the aggregate national production of the regulated substance to be transferred is equal to the least of three different levels, which are described below. Similarly, such a transfer may occur from a company in a foreign country to a company in the United States if, at the time of the transfer, EPA finds that the foreign country has revised their domestic production limits of the regulated substance in the same manner. EPA also has discretion under subsection (j)(3) to reduce the United States' production limits as a prerequisite to a transfer to a company in a foreign country, or to increase the United States' production limits to reflect production allowances transferred from a company in a foreign country to a company in the United States.

The proposed regulations that would implement the AIM Act's international transfer provisions are structured similarly to the provisions governing international transfers under the ODS phaseout (see 40 CFR 82.9(c) and 82.18(c)). When a transfer request is submitted, EPA is proposing to review whether the foreign country where the foreign company is located meets the conditions of subsection (j)(1) and is therefore eligible to participate in transfers of production allowances to or from the United States.[57] If the foreign country does not meet the conditions in subsection (j)(1), EPA would notify the

[55] Subsection (j)(1) also addresses exports. In particular, after January 1, 2033, it prohibits the export of a regulated substance to a person in a foreign country if EPA determines that the country has not undertaken certain actions regarding the production and consumption of regulated substances. Given the timing of this prohibition, EPA does not intend to further address this aspect of subsection (j)(1) in this rulemaking.

[56] This review would be an internal procedure, but EPA would engage in notice and comment rulemaking to revise the regulations.

[57] In the ODS context, EPA developed a list of countries that had domestic regulatory requirements in place regarding the production and consumption of ODS. Given the limited number of international transfers of production allowances that EPA saw under CAA Title VI, EPA does not presently anticipate that a list will be necessary to implement these provisions. EPA is thus not proposing to establish a list of countries that meet the conditions in (j)(1) at this time. EPA may consider whether to implement such a list at a future time, such as when the Agency starts implementing the Jan. 1, 2033, export prohibition in (j)(1).

requestor in writing that no transfers to or from the country can occur.

If EPA determines that the foreign country meets the conditions in (j)(1) of the Act, it would consider whether the applicable requirements in subsection (j)(2) of the AIM Act are met. For transfers to a foreign country, a U.S. company may engage in the transfer under subsection (j)(2)(A) if at the time of the transfer EPA revises the number of production allowances such that the aggregate national production of the regulated substance to be transferred is equal to the lessor of three values listed in subsection (j)(2)(A)(i)–(iii):

- The maximum production level permitted under the AIM Act for the applicable regulated substance in the year of the international transfer minus the production allowances transferred;
- the maximum production level for the applicable regulated substances that are allowed under applicable law minus the production allowances transferred; or
- the average of the actual national production level of the applicable regulated substances for the three years prior to the date of the transfer minus the production allowances transferred.

In relevant part, subsection (j)(2)(A)(i)–(iii) of the AIM Act refers to the ''applicable regulated substance'' and ''applicable regulated substances,'' such as in the phrase ''the maximum production level permitted for the applicable regulated substance in the year of the transfer . . . , less the production allowances transferred.'' Since EPA is proposing to issue allowances as an exchange value-weighted amount and not as a chemical-specific quantity, allowance holders could use all their allocated production allowances for any one chemical. As such, if a company transfers production allowances to a foreign country, EPA considers the ''maximum production level permitted for the applicable regulated substance in the year of transfer'' to be the same as the maximum allocation listed in proposed § 84.7(b), which is an exchange value-weighted amount. EPA would take the same approach of weighting amounts based on exchange values when considering the levels consistent with (j)(2)(A)(ii) and (iii). As the production allowances transferred would also be accounted for in terms of the exchange value-weighted units, the reduction would be appropriately reflected in the total.

EPA is proposing that the U.S. company seeking to transfer allowances (*i.e.,* the ''transferor'') must submit to EPA a signed statement requesting that EPA revise the number of production allowances consistent with the requirements of subsection (j)(2)(A)(i)–(iii). EPA would determine which is the lesser of the three values. The transferor would also need to submit to EPA information on the contact person and foreign country authorizing the transfer; the chemical and quantity being transferred; documentation that the foreign country possesses the necessary quantity of unexpended production rights; and the calendar year for that transfer. EPA seeks comment on whether it should additionally require prior approval by a foreign country or some other documentation from the foreign country verifying it can increase allowable production in the relevant calendar year if EPA approves the transfer, or whether an application for such reduction or some other official government communication from the foreign country's embassy in the United States is sufficient. For these transfers, the allowance revisions for the company in the United States would be reflected at the individual transferor level.

In reviewing submissions for transfers to a company in a foreign country, EPA would consider whether the transfer and revised production limits meet the requirements in subsection (j), as discussed above. EPA is also proposing to define other factors the Agency could take into account in considering whether to approve such transfers. Under the CAA Title VI implementing regulations in 40 CFR part 82, subpart A, EPA has the discretion to take factors into account relating to possible economic hardships created by a transfer, potential effects on trade, potential environmental implications, and the total amount of unexpended allowances held by entities in the United States. For the AIM Act regulations, EPA sees value in having discretion to consider the environmental implications, since there could be an environmental benefit or cost associated with the international transfer that could influence EPA's decision-making, and the total unexpended allowances held by entities in the United States, given EPA would not be able to approve a transfer if there were insufficient allowances to transfer, and is thus proposing to include these factors among those that could be taken into account. The Agency seeks comment on this proposal, and on whether and how it should consider other factors, including possible economic hardships created by an international transfer (*e.g.,* on U.S. employment) and potential effects on trade.

For transfers from a foreign country, subsection (j)(2)(B) of the Act provides that the U.S. company may engage in the transfer if EPA finds that the foreign country has revised the domestic production limits of the regulated substances in the same manner as for transfers by a company in the United States. Accordingly, EPA proposes that the company must submit a signed document from an official representative in that country's embassy in the United States stating that the appropriate authority within that country has revised the domestic production limits for that country equal to the least of:

- The maximum production level permitted under the AIM Act for the applicable regulated substance in the year of the international transfer minus the production allowances transferred;
- the maximum production level for the applicable regulated substances that are allowed under applicable law (including the country's applicable domestic law) minus the production allowances transferred; or
- the average of the country's actual national production level of the applicable regulated substances for the three years prior to the date of the transfer minus the production allowances transferred.

Consistent with subsection (j)(2)(B) of the Act, these three situations are intended to align with the provisions in subsection (j)(2)(A)(i)–(iii) of the Act. As noted above, subsection (j)(2)(A)(i)–(iii) of the AIM Act refers to the ''applicable regulated substance'' and ''applicable regulated substances,'' such as in the phrase ''the maximum production level permitted for the applicable regulated substance in the year of the transfer . . ., less the production allowances transferred.'' EPA is proposing that if the country uses an exchange value-weighted system similar to what EPA has proposed, this phrase should have the same meaning as for transfers from the United States to another country. If a foreign country has established chemical-specific production levels, this phrase would be interpreted to mean the production level for the particular regulated substance involved in the transfer. In such a scenario, the production allowances transferred would be translated into exchange value-weighted amounts for purposes of tracking compliance with obligations under the AIM Act. EPA would take the same approach when considering the levels consistent with (j)(2)(A)(ii) and (iii). If the foreign country has established a different domestic regulatory approach, EPA would need to consider on a case-by-case basis how best to review this condition to ensure

that requirements of the AIM Act are met.

EPA is proposing that the language in (j)(2)(A)(i) that establishes one of the thresholds for determining the appropriate reduction in production allowances as the maximum production level permitted ''under this section'' for the applicable regulated substance in the year of the international transfer be interpreted to restrict international transfers from a foreign country to situations in which the country has revised their production limits to establish a phasedown schedule at least as stringent as that in the AIM Act. As noted above, under subsection (j)(2)(B), EPA must find that the country has revised the domestic production limits ''in the same manner'' as provided for transfers by a company in the United States to a company in a foreign country in order for the transfer to occur. One requirement for such transfers to a foreign country in (j)(2)(A) is that the number of allowances for production under subsection (e)(2) of the Act must be revised downward such that national aggregate production is equal to the lessor of one of three values, one of which is the maximum production level permitted ''under this section'' for the applicable regulated substance in the year of the international transfer. Under this proposal, subsections (j)(2)(A) and (j)(2)(B) would be read together to mean that Congress intended for the international transfer provisions only to apply to countries that have revised their production limits to establish a phasedown schedule at least as stringent as the AIM Act's.

EPA seeks comment on this proposal and also seeks comment on whether those provisions could instead be interpreted to allow transfers from foreign countries where the country has satisfied the requirements in (j)(1) of the Act and established domestic production controls for the 18 HFCs regulated under the AIM Act, even if they are on a different phasedown schedule, and revised the maximum production limit established under those provisions to account for the transfer. The language in (j)(1) would allow for transfers of production allowances to a company in a foreign country if EPA has determined that the country has put in place ''the same or similar requirements'' as are contained in the AIM Act. In relevant part, this language appears to allow for transfers (*i.e.,* of allowed production) between the United States and countries that have capped their production and are phasing down listed HFCs, even if the requirements are not identical. EPA specifically solicits comments on how the phrase ''in the same manner as provided with respect to transfers by a person in the United States under this subsection'' in (j)(2)(B) would be understood under such an interpretation.

For international production allowance transfers to a U.S. company, the company would need to submit to EPA a request that includes information on the contact person and foreign country authorizing the transfer; the chemical and quantity being transferred; the calendar year for that transfer; and a signed statement describing whether the increased production is intended to allow the company in the United States to serve the export market or to serve the U.S. market. This information would be helpful to EPA because once the transfer is complete, EPA proposes to treat production allowances transferred from a foreign country the same way as all other production allowances issued by EPA. As such, a production allowance and a consumption allowance must be expended for each unit of HFC produced, though if the amounts are later exported, the consumption allowances may be reimbursed. EPA seeks comment on whether EPA should require prior approval by a foreign country or some other commitment from the foreign country's embassy in the United States verifying it has decreased allowable production before approving of the transfer. Additionally, EPA seeks comment on whether it could approve such a transfer if the foreign country has committed that it will decrease the allowable production after EPA approves but before the transfer occurs. For these transfers, any allowance revisions for the company in the United States would be reflected at the individual company level. In reviewing submissions for transfers from a company in a foreign country, the Administrator would consider whether the transfer and revised production limits meet the relevant requirements under subsection (j).

For both transfers from and to foreign countries, EPA, following review, would notify the requestor in writing that the appropriate production allowances were either granted or deducted and specify the affected year(s), provided EPA determines the request meets the proposed required conditions. In approving an international transfer, EPA would notify the transferor in writing of the appropriate revisions to a transferor's allowance balance at the time of approval. For transfers from a foreign country, the Administrator would notify the requestor in writing that the allowances of that company are revised to equal the unexpended production allowances held by the company plus the level of allowable production transferred from the foreign country. EPA would not adjust available allowances until the foreign country's representative had confirmed the appropriate number of allowances were deducted in the foreign country.

For a transfer to a foreign country, the AIM Act does not limit the quantity of production allowances that may be transferred. EPA is seeking comment on whether to include a provision like the one used under the implementing regulations for international transfers for ODS under CAA Title VI giving the Administrator the option to disapprove the proposed transfer if the transfer is not consistent with domestic policy. EPA also seeks comment on what policies might be relevant in this context. Additionally, EPA is proposing that it would deny the transfer if the transferor did not possess sufficient allowances to permit the necessary reduction in aggregate domestic production to be reflected in the transferor's revised production limits.

If EPA approves the proposed transfer, EPA would establish revised production limits for the transferor so that the aggregate national production permitted reflects the effect of the transfer of production allowances. In certain circumstances, following a transfer of allowances to another country, the AIM Act requires that the aggregate national U.S. production of the HFC to be transferred be reduced by an additional amount beyond a simple deduction of the number of allowances transferred to another country. For instance, if the average actual U.S. production during the three-year period prior to the date of the transfer is less than the total allowable U.S. production for that substance under § 84.7(b), then by the time of the transfer, U.S. production would need to be revised downward to equal the three-year average minus the amount transferred. This additional reduction would also need to be reflected in the revised production limit.

EPA requests comment on whether there are any other scenarios where a greater reduction would be needed. In such circumstances, EPA is proposing to conclude that it would be appropriate for the required reduction in U.S. production to be allocated among all the transferors participating in international transfers in the same calendar year in proportion to the number of allowances transferred by each entity. This approach would be fair, as it treats every company equally based on the total number of allowances transferred. To

ensure EPA does not need to revise allowances if companies submit their requests at different times, *e.g.,* one company submits a request by February 1 and another on September 1, EPA is proposing that all requests for international transfers of production allowances be submitted by October 1 of the year prior to the year the transferred allowances would be useable. If there is only one transferor, the reduction would be applied exclusively to that company. EPA would notify each transferor of the revised production limit before January 1 and the allowances would be useable as of January 1 for the full calendar year. The transfers would be deemed to occur as of January 1, the date the transferor's production limit is revised and the allowances are useable, for purposes of determining the three-year period for purposes of this analysis. The transferor would then be able to make timely market decisions with the remaining production allowances. EPA would rely upon the three most recent calendar years' worth of data. For example, if a request were submitted by October 1, 2022, EPA would rely upon data from January 1, 2019, through December 31, 2021, to determine the average of the actual national production level over the last three years (as specified in subsection (j)(2)(A)(iii)). While the AIM Act states the Agency should use the average production level for the ''three-year period ending on the date of the transfer,'' such data for the year ending on the date of transfer would generally not be reported until 45 days after the end of the quarter, and then would need to be reviewed by EPA for accuracy. Further, the timing for the availability and/or release of another country's data is unknown. Thus, EPA is proposing that it is reasonable to implement this provision through the three most recent calendar years' worth of data.

EPA requests comments on this proposal, including the proposed dates for submission of requests and approvals of the transfers, and additionally solicits comment on whether it should use a different three-year period for purposes of this analysis, such as based on the three-year period starting from the quarter closest to the date of the transfer that has data reviewed for accuracy by EPA. For example, EPA requests comments on an alternative under which if requests were submitted by December 31, 2022, they would be approved by March 1, 2023, and useable for the rest of that year, and the three-year period would be evaluated from October 1, 2019, to September 30, 2022. EPA further requests comments on how it should proceed if information on the actual national production level for the applicable regulated substances is not available for all of the relevant three-year period. EPA also requests comment on whether rather than grouping the requests together, it should alternatively allow requests for international transfers to be submitted individually on a rolling basis over the year, evaluate them separately as they come in, and if any request happens to trigger a need to reduce the aggregate national U.S. production by an additional amount beyond a simple deduction of the number of allowances transferred, that additional amount would be applied exclusively to that requestor's balance.

EPA is proposing the following method to determine the transferor's balance of production allowances after a transfer to a company in a foreign country: The Administrator would determine which of the values under (j)(2)(A) of the Act leads to the lowest value and adjust allowance balance(s) accordingly. EPA requests comment on the proposed provisions and method used to calculate revised production limits for those wishing to transfer production allowances internationally. EPA also requests comment on its proposal if more than one company transfers production of an HFC to a foreign country or countries in one year, and on possible alternative methods to calculate these revised production limits.

Given the discussion at the start of this section explaining how ''transfers'' is used in (g) and (j) of the Act, and that EPA is proposing to interpret references to that term as synonymous with references to trade, the Agency is also proposing to apply the requirement in subsection (g)(2) to international transfers. Subsection (g)(2) of the Act specifies that EPA's regulations shall ensure that transfers ''will result in greater total reductions in the production of regulated substances in each year than would occur during the year in the absence of the transfer.'' The Agency is proposing to conclude that it is reasonable to view (g)(2) of the Act as applying equally to all transfers. This is consistent with the requirement under (g)(1) that EPA promulgate a regulation that ''governs the transfer of allowances for the production of regulated substances under subsection (e)(3)(A)'' of the Act. As the international transfers under (j)(2) would affect the production allowances issued under subsection (e)(3)(A), it would be reasonable to apply those requirements to international transfers as well. This approach would also result in an additional benefit for the environment than would occur absent the transfer, consistent with (g)(2). See the discussion earlier in this proposal for the proposed offset that would be associated with transfers generally, including international transfers. EPA seeks comment on this proposal, as well as on whether international transfers should have the same offset level as all other transfers or if a level at the lower or higher end of the proposed one to 10 percent range is more appropriate. For comments addressing this issue, EPA requests that they include the commenter's views, if any, both on what level the Agency should use as an offset for international transfers and, if at a different level than other offsets, why a different level is warranted.

B. How is EPA proposing to address destruction of regulated HFCs?

1. Which destruction technologies is EPA proposing to approve for the destruction of regulated HFCs?

The AIM Act in subsection (b)(7) defines the term produce to exclude the destruction of HFCs if the destruction occurs through use of a technology approved by the Administrator. This section proposes a list of destruction technologies that would be considered approved for purposes of the AIM Act.

Many of the destruction technologies previously approved by EPA to destroy ODS have also been found capable of destroying HFCs to a minimum destruction and removal efficiency (DRE) of 99.99 percent.[58] EPA proposes to find that technologies that destroy HFCs to a DRE of 99.99 percent are appropriate to list for approval under the AIM Act. There are three broad categories of destruction technologies: Thermal oxidation (incineration), plasma, and conversion (other, non-incineration) technologies. There are twelve destruction technologies capable of destroying HFCs other than HFC–23 to a DRE of 99.99 percent, and eight technologies capable of destroying HFC–23 to a DRE of 99.99 percent.

The 12 technologies that destroy HFCs other than HFC–23 to a DRE of 99.99 percent are:

- *Incineration (6 technologies):* Cement kilns, gaseous/fume oxidation, liquid injection incineration, porous thermal reactor, reactor cracking, and rotary kiln incineration.
- *Plasma (3):* Argon plasma arc, nitrogen plasma arc, and portable plasma arc.

[58] 2018 TEAP Report, Volume 2: Decision XXIX/4 TEAP Task Force Report on Destruction Technologies for Controlled Substances. March 15, 2021. *https://ozone.unep.org/sites/default/files/2019-04/TEAP-DecXXIX4-TF-Report-April2018.pdf.*

• *Conversion (3):* Chemical reaction with hydrogen (H_2) and CO_2, gas phase catalytic de-halogenation, and superheated steam reactor.

The eight technologies that destroy HFC–23 to a DRE of 99.99 percent are:

• *Incineration (4):* Gaseous/fume oxidation, liquid injection incineration, reactor cracking, and rotary kiln incineration.

• *Plasma (2):* Argon plasma arc and nitrogen plasma arc.

• *Conversion (2):* Chemical reaction with H_2 and CO_2 and superheated steam reactor.

EPA proposes creating two lists of approved destruction technologies—one for HFC–23, which is more difficult to destroy, and one for all other regulated substances. These technologies provide a variety of technological options for the destruction of HFCs and are capable of either destroying HFCs at a DRE of at least 99.99 percent or converting them into non-regulated substances.

EPA solicits comment on whether the list of destruction technologies is appropriate, whether any additional destruction technology should be considered, and notes that the Agency intends to consider adding additional destruction processes to the list of approved destruction technologies in the future as further technologies are developed. EPA also solicits comment on whether it should only establish one list containing only the eight technologies that can destroy HFC–23. This would ensure the technologies can adequately destroy the HFC with the highest exchange value. EPA is concerned that HFC–23 could be mistakenly taken to a destruction facility that is incapable of destroying the compound, such as when HFC–23 is contained in a mixture of other HFCs. This could be avoided by approving only destruction technologies that can destroy all HFCs.

VIII. What enforcement and compliance provisions is EPA proposing?

Based on EPA's experience with the ODS phaseout in the United States,[59] the global experience phasing out ODS,[60] and the recent experiences in countries that have already begun phasing down HFCs,[61] the incentive to illegally trade HFCs will likely increase as HFC production and consumption become regulated and as allowances that authorize import and production of HFCs decline. It is EPA's intent to establish mechanisms that discourage and prevent illegal production, import, and subsequent sales of illegally produced or imported HFCs. These proposals are designed, when taken together, to deter noncompliance, incentivize future compliance, and ensure that companies that are complying with statutory and regulatory obligations are not put at a competitive disadvantage.

In developing this proposal, EPA reviewed in detail the challenges faced by the European Union (EU) in preventing illegal imports of HFCs. Assessments available in the docket from HFC producers, industry associations, and environmental non-governmental organizations (NGOs) provide evidence of significant non-compliance with the EU F-gas rule (Regulation (EU) No 517/2014), which establishes a schedule to phase down HFC production and consumption over time, similar in concept to the HFC phasedown in the AIM Act albeit on a different schedule. These assessments suggest that noncompliance in the EU occurs primarily through illegal imports, which can be grouped into two categories: (1) ''Open smuggling'' through the normal customs channels (*e.g.,* correct commodity codes without proper allowances to do so) and, (2) ''traditional smuggling'' where the importer seeks to avoid the typical customs channels altogether or where HFCs are concealed (*e.g.,* mislabeling). Reports show significant awareness in the industry of illegal activity. A 2019 report by the Environmental Investigation Agency (EIA)[62] provided results of surveys conducted with industry stakeholders in Europe. More than 80 percent of companies surveyed were aware of or suspected illegal HFC trade and 72 percent had seen or been offered refrigerants in disposable cylinders—a common feature of illegally imported HFCs despite the EU requirement that HFCs be sold in refillable containers.

The review of European customs data presented in the EIA report and others back up this perception. EIA found that ''bulk HFC imports in 2018 were too high for compliance with the 2018 quota.''[63] EIA estimated that the amount of HFCs placed on the market in 2018 could be 16.3 $MMTCO_2e$ (or 16 percent) above the quota amount (*i.e.,* the amount allocated) through ''open smuggling of HFCs (*i.e.* imports openly shipped through customs without quota).''[64] Honeywell estimated that illegal imports were equivalent to more than five percent of the total CO_2-weighted quota in 2015.[65] The law firm King & Spaulding, on behalf of the Alliance for Responsible Atmospheric Policy, found that reported imports to European customs officials exceeded the quota amount by 16 percent in 2019 and 33 percent in 2020.[66] The European FluoroCarbons Technical Committee (EFCTC) cited analysis of customs records done by Oxera, who found a significant disagreement in trade data on HFCs shipped from China to the EU. Oxera created a database using data from the EU statistics agency Eurostat, the United Nations' trading statistics database Comtrade, and Chinese export data to calculate the amount of HFCs that was illegally imported (above the quota amount). They found that what was reported as exported from China alone was 16 percent higher than the amounts reported as imported into the

[59] See, *e.g.,* Goldberg, Carey. ''A Chilling Change in the Contraband Being Seized at Borders.'' *The New York Times,* The New York Times, 10 Nov. 1996, *www.nytimes.com/1996/11/10/us/a-chilling-change-in-the-contraband-being-seized-at-borders.html* and ''Enforcement Actions under Title VI of the Clean Air Act.'' *EPA,* Environmental Protection Agency, 17 Dec. 2020, *www.epa.gov/ozone-layer-protection/enforcement-actions-under-title-vi-clean-air-act#2011.*

[60] See, *e.g.,* Montzka, S.A., Geoff S. Dutton, G.S., Yu, P., Ray, E., Portmann, R.W., Daniel, J.S., Kuijpers, L., Hall, B.D., Mondeel, D., Siso, C., Nance, J.D., Rigby, M., Manning, A.J., Hu, L., Moore, F., Miller, B.R., and Elkins, J.W. (2018) ''An unexpected and persistent increase in global emissions of ozone-depleting CFC–11'' *Nature* 557: 413–417, available at: *https://www.nature.com/articles/s41586-018-0106-2*; WMO (World Meteorological Organization), *Scientific Assessment of Ozone Depletion: 2014,* World Meteorological Organization, Global Ozone Research and Monitoring Project-Report No. 55, 416 pp., Geneva, Switzerland, 2014, available at *https://www.esrl.noaa.gov/csd/assessments/ozone/2014/report.html*; Environmental Investigation Agency (EIA) (2018) Blowing It: Illegal Production and Use of Banned CFC–11 in China's Foam Blowing Industry, available at: *https://eia-global.org/reports/20180709-blowing-it-illegal-production-and-use-of-banned-cfc-11-in-chinas-foam-blowing-industry*; and Rigby, M. et al. ''Increase in CFC–11 emissions from eastern China based on atmospheric observations'' *Nature* 569 7757: 546–550, available at: *https://www.nature.com/articles/s41586-019-1193-4.*

[61] ''Doors Wide Open.'' *Eia-International.org,* Environmental Investigation Agency, Apr. 2019, *https://reports.eia-international.org/doorswideopen.* ''Resources.'' *Alliancepolicy.org,* The Alliance for Responsible Atmospheric Policy, 1 Nov. 2020, *www.alliancepolicy.org/ref-imports/resources-2.*

[62] ''Doors Wide Open.'' *Eia-International.org,* Environmental Investigation Agency, Apr. 2019, *https://reports.eia-international.org/doorswideopen.*

[63] Ibid.

[64] Ibid.

[65] ''10m Tonnes of Illegal F-Gas Enters Europe.'' *Coolingpost.com,* Cooling Post, 1 May 2016, *www.coolingpost.com/world-news/over-10m-tonnes-of-illegal-F-gas-enters-europe/ www.coolingpost.com/world-news/over-10m-tonnes-of-illegal-F-gas-enters-europe/.*

[66] See King & Spaulding, on behalf of the Alliance for Responsible Atmospheric Policy, Side Event presentation at COP12/MOP32 (November 23, 2020), available in the docket and online at *https://www.alliancepolicy.org/site/usermedia/application/10/Bradford%20KS%20HFC%20Presentation%2023%20Nov%202020%20v4.pdf.*

EU during 2016, six percent higher in 2017, and 21 percent higher in 2018.[67]

These reports also indicate the likelihood of more covert smuggling activity, though the scale is not fully known. Reported seizures of illegally imported material in EU member states between 2018 and 2020 range from a few cylinders to more than 76 MT of HFCs.[68] These reports show significant growth in legal HFC imports from China into countries neighboring the EU. King & Spaulding cites a 2020 report by Oxera showing a 40 percent increase in HFC exports from China to EU neighbor countries from 2016–2018.[69] They note the dramatic increase in 2018 coincides with a stepdown under the EU's HFC allocation program, and that the increase in legal imports to neighbor countries could be associated with smuggling HFCs into the EU. They also ''noted that various reports found smuggled imports [into the EU] were 20 to 30% of the quota.'' [70]

While not definitive, the reports note this growth may be because the HFCs are being illegally imported into the EU through neighboring countries, such as with fraudulent import declarations, disguised as something else, or through shipment in hidden compartments. The reports also note that illegally imported HFCs that are caught are shipped primarily in disposable cylinders. King & Spaulding cites a report from an international investigation agency called Kroll, which was hired by the EFCTC to investigate HFC trade in the EU. In addition to finding that illegal HFCs travel through EU neighbor countries, illegal shipments are often sold through online market platforms or arrive through misdirected transhipments, allocation abuse, open smuggling, and counterfeit material.[71]

In summary, there is significant evidence of noncompliance with HFC quotas in the EU, which suggests that similar attempts will be made to evade legal requirements in the United States. By comparison, if the United States were to see similar noncompliance of five to 33 percent of the total U.S. allocation, that would equate to 13–90 MMTEVe of additional consumption than should happen under the statutorily provided phasedown step for 2022 alone with accompanying long term emissions and environmental and public health costs associated with that level of consumption. This level of noncompliance would put businesses complying with regulatory requirements at a competitive disadvantage and could inhibit companies from investing in research and development to identify new alternatives. In addition, illegal imports of HFCs have consequences for other U.S. agencies, such as Customs and Border Protection who collect duties on imports of HFCs.

Consistent with the documented experience in the EU, EPA has also seen situations where material that appears to be illegally imported is advertised as one chemical, but the contents of the container are something different. EPA recently identified imports of small cans that were advertised as ''Cool Penguin F–12'' (or CFC–12) in small cans for use in motor vehicle air conditioners.[72] While the cans contained some CFC–12, they also contained an inconsistent mixture of numerous other chemicals, including R–40 (chloromethane) which is toxic and has the potential to explode. Given this experience with imports of fluorocarbons that are mislabeled, there are consumer and worker safety concerns.

Through the proposed requirements that follow, EPA is proposing to put in place strong enforcement and compliance measures at the outset of this new regulatory program developed pursuant to AIM Act authority to prevent or identify illegal activity in the United States and ensure compliance with the obligations under the AIM Act. Failure to do so could significantly harm the environment, the U.S. economy, and consumer and worker safety.

The experience in the EU and the grounded belief that a similar scenario could come to fruition in the United States calls for robust enforcement, compliance, and transparency provisions to ensure EPA can meet the statutory directive in AIM Act subsection (e)(2)(B) that ''the Administrator shall ensure that the annual quantity of all regulated substances produced or consumed in the United States does not exceed'' the levels prescribed in the AIM Act. EPA understands this directive, as well as the prescriptive schedule established in subsection (e) of the AIM Act and the inclusion of application-specific allowances within the overall cap, as indications that Congress intended for the statutorily required reductions in HFC consumption and production to occur. EPA is accordingly proposing comprehensive compliance and enforcement measures to help ensure that it can implement the allowance program so that it achieves these reductions.

EPA is proposing a multifaceted approach to prevent and identify noncompliance in order to ensure the Agency can meet the statutory directive in subsection (e)(2)(B) and to create a level playing field for the regulated community. Each element is intended to deter illegal activity and address such activity when it is identified. The key components of this proposal include:

- Administrative consequences to deter noncompliance and create pathways to address the impacts of noncompliance;
- Packaging (including requiring use of refillable cylinders) and labeling requirements;
- Increased oversight of imports including requiring consumption allowances to import heels and U.S. goods returned, petitioning to import regulated substances for transformation or destruction processes, reporting of transhipments, and prohibiting the import of virgin HFCs for disposal.
- Establishment of a comprehensive certification ID tracking system using QR codes or similar digital technology to track the movement of HFCs through commerce, including requiring anyone that introduces into interstate commerce or sells HFCs to be registered in the system;
- Recordkeeping and reporting;
- Third-party auditing; and
- Data transparency.

EPA intends to work with CBP to institute an automated electronic mechanism to check in real-time if an importer has sufficient allowances for a particular shipment. EPA and CBP have established working relationships regarding the imports of various goods subject to domestic regulation, including ODS. EPA intends to modify the Agency's electronic database

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[67] ''The Black Market for HFC Refrigerant Gas Is Thriving across Europe.'' Webinar on Illegal Trade of HFCs—2020.06.26, European Fluorocarbons Technical Committee, 17 Sept. 2020, *www.youtube.com/watch?v=qqO8IuEt7eg* and *https://stopillegalcooling.eu/wp-content/uploads/Oxera-webinar-slides.pdf?utm_source=webinar&utm_medium=email&utm_campaign=oxera.*

[68] See EFCTC, Tracking, Training, Tracing: Trade Enforcement on Illegal HFC Imports, Side Event presentation at COP12/MOP32 (November 23, 2020), available in the docket and online at *https://www.alliancepolicy.org/site/usermedia/application/3/Angelica%20Candido%20EFCTC%20Alliance%20Side%20Event%202020.pdf.*

[69] See King & Spaulding (on behalf of Arkema Inc., The Chemours Company, Honeywell International Inc., and Mexichem Fluor Inc.), Comments Regarding Foreign Trade Barriers to U.S. Exports of Hydrofluorocarbons, submitted to the Office of the United States Trade Representative (October 26, 2020), available in the docket.

[70] Ibid.

[71] See EFCTC, New Kroll findings reveal how illegal imports of HFCs continue to enter EU (April 15, 2020), available in the docket and online at *https://www.fluorocarbons.org/wp-content/uploads/2020/04/2020-04-15_Press-release-Kroll_final_website-1.pdf.*

[72] See Mobile Air Climate Systems Association (MACS), Safety Alert: Online Sales of Cool Penguin F–12 in Action (November/December 2020), available in the docket.

monitoring HFC allowances such that the most current available information is up to date to allow for real-time or near real-time electronic confirmation by CBP of whether a company seeking to import HFCs is an allowance holder and has sufficient allowances for that specific import.

A. What are the proposed administrative consequences available to EPA with respect to allowances?

As noted elsewhere in this rulemaking, production allowances, consumption allowances, and application-specific allowances do not constitute property rights. The AIM Act gives the Administrator significant authority to determine an appropriate allowance system, which EPA proposes would include the authority to retire, revoke, or withhold allowances at the discretion of the Administrator under certain defined circumstances. For clarity and consistency, EPA intends to treat each of these potential consequences in the following manner:

- A retired allowance would be one that EPA would have otherwise issued to an entity for the next calendar year, but instead, may not be expended in the following calendar year by that entity, nor be transferred to any other entity. A retired allowance would effectively expire unused in the next calendar year. If an entity does not have sufficient allowances to retire, it would need to acquire those allowances (*e.g.,* through a transfer) and retire them.
- A revoked allowance would be one that EPA rescinds after issuance to an entity. EPA proposes that any unexpended allowances held by an entity may be revoked as described below and then redistributed on a pro rata basis to the general pool.
- A withheld allowance would be one that EPA would have otherwise issued to that entity for the next calendar year, but instead, is redistributed on a pro rata basis to the general pool. Similar to a retired allowance, the entity that would have received the allowance would not be able to expend it nor transfer it; however, unlike a retired allowance which would expire unused, an allowance that is withheld from an entity would be redistributed.

EPA also proposes that there may be circumstances where the potential administrative consequence could be a ban on a company and/or its owner(s) receiving future allowances. In this scenario, EPA proposes that the company and/or its owner(s) would not be eligible to receive or obtain allowances by way of allocation or transfer, and such a ban would effectively render the company and/or owner(s) unable to produce or import HFCs regulated under the AIM Act. If EPA were to ban the company, EPA proposes that any allowances that the company has already received would be revoked, and any allowances that the company might have otherwise received in the future would be withheld and redistributed on a pro rata basis to the general pool. If EPA were to ban the owner(s), EPA proposes that any allowances that the owner(s) has already received, either through the company at fault or a different company, would be revoked, and any allowances that the owner(s) might have otherwise received in the future, either through the company at fault or a different company, would be withheld and redistributed on a pro rata basis to the general pool. EPA proposes this potential consequence both as a deterrent to prevent illegal production and import, but also to ensure that, if illegal activity occurs, bad actors are removed from the HFC allocation system such that EPA can ensure production and consumption caps are met moving forward in line with the AIM Act's Congressional directive.

These proposed administrative consequences for allowances are not intended to supplant or replace any enforcement action taken under the AIM Act. Instead, such consequences would be in addition to any applicable enforcement action.

B. What practices could warrant EPA's proposed administrative action for allowances?

EPA has identified the following types of practices that could warrant the Agency exercising its discretion to levy administrative consequences for allowances: falsifying information or data; not disclosing financial conflicts of interest or familial relationships in certain circumstances; noncompliance with the AIM Act or proposed prohibitions under § 84.5; and noncompliance with Department of Commerce (DoC) and CBP HFC trade provisions. Discussion of each of these categories as well as EPA's proposal regarding what administrative consequences may be taken for allowances follows. Any administrative action taken is not intended to supplant or replace any enforcement action taken under the AIM Act. Instead, such consequences would be in addition to any applicable enforcement action. In all cases, EPA could also ban a company and its owner(s) receiving future allowances for such action, depending on the severity of the noncompliance.

1. Falsifying or Failing To Disclose Relevant Information

As discussed previously in this rulemaking and detailed here, EPA is proposing that falsifying information with respect to application-specific allowances may warrant one or more administrative consequences for allowances. Specifically for application-specific allowances, EPA proposes that if future information reveals a company applying for application-specific allowances has provided false information, EPA reserves the right to revoke allowances and/or require future retirement of allowances at a greater level than the number of application-specific allowances allocated.

Falsifying or failing to disclose relevant information as described in the preamble section, ''*What is EPA's Proposed Set Aside Pool of Allowances*'' could warrant EPA exercising the right to revoke allowances and requiring the company to retire a greater number of allowances than those received through the set aside pool. If the company receiving set aside allowances is later determined to be financially connected or have a familial relationship with another company receiving set aside allowances or another allowance holder, EPA proposes to also have the ability to apply these provisions regarding revoking, withholding, and retiring allowances (with a premium as discussed elsewhere in this proposal), as well as banning all the companies and owner(s) involved from receiving future allowances.

2. Compliance With the AIM Act

EPA is proposing that the Agency could revoke or withhold allowances from an entity that has been found, through a concluded enforcement action, to have unlawfully produced or imported, or attempted to unlawfully produce or import, HFCs. EPA is also proposing that it could ban a company and its owner(s) receiving future allowances for such action, depending on the severity of noncompliance.

EPA is also proposing that if an allowance holder produces or imports, or attempts to produce or import, HFCs in excess of their allowances under the AIM Act, such as if an import arrives at a port without the appropriate allowances or there is production at a facility whose parent company does not have allowances, the allowance holder would be required to retire that amount in the following year. This administrative action would not be contingent on a concluded enforcement case. Instead it would be based on information available to EPA, such as

allowance availability at the time of production or import, or evidence from the QR code tracking system that a company is selling material that was produced or imported without allowances. EPA would have discretion to add a range of premiums based on the case specific factors such as the egregiousness of the violation and whether there are repeated violations. EPA is proposing a range of between 20 percent and 200 percent and welcomes comment on this range. In cases where the amount required to be retired in the following year exceeds the allowances held by the importing entity for the next year, EPA proposes that the allowance holder may be subject to complete revocation or retirement of its HFC allowances, or may not be issued allowances in future years or may receive a reduced allocation.

EPA is proposing these potential administrative consequences to deter illegal production and import. Illegal production and import undermine EPA's ability to meet the AIM Act requirement that EPA ensure that the United States' HFC production and consumption do not exceed the statutorily defined cap. The proposal to retire allowances also ensures there is an environmental benefit to account for noncompliance that could result in production and/or consumption above the permitted levels.

3. Violation of Department of Commerce and Customs and Border Protection Trade Provisions

EPA is aware of potential concerns with allocating allowances to entities that DoC has determined are dumping HFCs onto the U.S. market. Dumping refers to ''when a foreign producer sells a product in the United States at a price that is below that producer's sales price in the country of origin, (''home market''), or at a price that is lower than the cost of production.'' [73] Foreign governments may subsidize industries by providing financial assistance to benefit the production, manufacture, or exportation of goods, thereby unfairly undercutting domestic producers. The DoC attempts to eliminate the unfair pricing or subsidies or the injury caused by such imports by imposing additional duties, termed Anti-Dumping/Countervailing Duties (AD/CVD). The amount of subsidies the foreign producer receives from the government is the basis for the subsidy rate by which the subsidy is offset, or ''countervailed,'' through these higher import duties. Anti-dumping and countervailing subsidy duties are two ways that the U.S. government addresses dumping and unfair foreign subsidies. The U.S. government can require that foreign companies involved in dumping and/or benefitting from subsidization are charged a fee collected by CBP each time they import products into the United States. This helps negate the value of the dumping/subsidization and creates a fairer competition for U.S. companies. In findings of dumping, DoC issues a ''Final Determination'' that requires importing entities to pay AD/CVD before the case is considered resolved. EPA has placed a memo in the docket summarizing actions taken to date, as well as the HFC-relevant Final Determinations that it is aware of.

EPA is proposing that any entity that is subject to a DoC Final Determination and is requesting allowances for 2022 or 2023 must provide documentation of payment of the AD/CVD for HFC imported in 2017 through the date of this proposed rule, or provide evidence that those imports were not required to pay AD/CVD for those years. EPA is proposing not to allocate to companies in 2022 or 2023 that CBP determines are not in compliance with or are otherwise in arrears with their AD/CVD during those years. After an entity is issued allowances, if it is subject to a DoC Final Determination and does not pay the required AD/CVD within the required time frame, as determined by CBP, EPA proposes that the company may have its allowances for that year revoked or retired, or may not be issued future allowances or may receive a reduced allocation. EPA proposes that it could, after consulting with CBP, also ban a company from receiving allowances in the future as a result of noncompliance with the regulations governing payment of AD/CVD.

EPA is also proposing that the Agency would have the discretion to revoke, retire, or withhold allowances for companies that fail to use the correct Harmonized Tariff Schedule (HTS) codes with each shipment of HFCs or HFC blends. Intentionally misdeclaring the HFC or HFC blend in a shipment is one way importers may attempt to illegally import HFCs without allowances or with fewer allowances. As noted earlier, EPA intends to work with CBP to institute an automated electronic mechanism to check in real-time if an importer has sufficient allowances for a particular shipment. Errors on customs forms would inhibit EPA's ability to conduct this crosscheck to ensure accuracy in and compliance with EPA's allowance system. EPA is also proposing that the Agency would have the discretion to ban a company or the company owner(s) from receiving future allowances if the company repeatedly misreports HTS codes.

C. What process is EPA proposing to apply administrative consequences for allowances?

EPA has provided examples where retirement, revocation, or future withholding of allowances may be warranted, including: falsifying or not disclosing relevant information in the case of application-specific allowances or new entrants; producing or importing, or attempting to produce or import, HFCs in excess of AIM Act allowances or otherwise not in compliance with AIM Act regulations (*e.g.,* using HFCs claimed to be for feedstocks or in transhipments for other purposes); and an entity in arrears for any AD/CVD. These situations are not meant to be exhaustive, but instead are intended as examples of when EPA might exercise discretion to apply one or more administrative consequences for allowances. Additionally, any practice or combination of practices specified in the proposed regulatory text in § 84.5 ''Prohibitions for regulated substances'' may warrant EPA exercising discretion to apply one or more administrative consequences for allowances. EPA seeks comment on whether there are additional non-compliant activities it should explicitly list as instances where the Agency could retire, revoke, or withhold allowances. EPA has also described what a ban on a company and its owner(s) would entail with respect to allowances. As stated earlier, these administrative consequences are not meant to replace or supplant any applicable enforcement action that may be taken under any available statutory authority; rather, such consequences would be in addition to any applicable enforcement action.

EPA is proposing the following general process for retiring, revoking, or withholding allowances, and for banning a company or its owner(s) from receiving or obtaining allowances:

- Upon evidence or suspicion of practices including but not limited to the examples provided earlier, EPA would provide notice of impending allowance retirement, revocation, or withholding, or notice of impending ban, to the company that would set forth the facts or conduct that provide the basis for action. Notice would be provided no less than 30 days before the impending action. During this 30-day period, EPA proposes that the company would not be allowed to expend or transfer its allowances.

[73] ''U.S. Antidumping and Countervailing Duties.'' *Trade.gov,* International Trade Administration, *www.trade.gov/us-antidumping-and-countervailing-duties.*

• Any company that receives such a notice of impending allowance retirement, revocation, or withholding, or notice of impending ban may choose to provide any information or data to support why their allowances should not be retired, revoked, or withheld, or why they should not be subject to a ban from receiving or obtaining allowances, within 14 days of the date of the Agency's notice. If EPA does not receive a response within 14 days, the impending action would be effective on the date specified in the notice, but not sooner than the expiration of the 14-day window.

After review of the supporting data or information provided by the company receiving notice, EPA could decide to revoke or modify its notification, continue with the retirement, revocation, or withholding of allowances, or continue with the implementation of a ban from receiving or obtaining allowances. EPA's decision would occur within 30 days of the date of the Agency's notice. Should EPA revoke its notification, the company's allowances would be unfrozen; and, should EPA continue with its impending action, the company's allowances would remain frozen until the effective date of the retirement, revocation, withholding, or permanent ban.

D. What is EPA proposing for packaging and labeling requirements?

This section discusses EPA's proposals to require: (1) A ban on disposable cylinders, such as DOT–39 cylinders, with limited exceptions, (2) the accurate labeling of the contents of cylinders, and (3) the use of tracking or identification technology. Together these requirements would disincentivize illegal imports, facilitate discovery of illegal imports, provide for better tracking of HFCs, and ensure that companies that have successfully maintained good standing are not put at a competitive disadvantage.

1. Ban on Disposable Cylinders

EPA is proposing a ban on the import and placement of HFCs in disposable cylinders with limited exceptions. The vast majority of HFCs packaged for sale to contractors are currently in DOT–39 disposable cylinders. A DOT–39 cylinder is strictly non-refillable and thus is designed for single use unlike refillable cylinders. A number of countries, including the EU member states, Australia, India, and Canada, have banned disposable cylinders in their countries.

Losses from all cylinders can occur under a variety of circumstances during transport, storage, and disposal, the frequency and severity of which depends in part on the type of cylinder. However, HFC losses are most likely to occur and in the most significant quantities from disposable cylinders, including the residual amount of HFCs (heels) that remain in the cylinders. With disposable cylinders, these heels, which can measure up to eight percent of the quantity that was originally stored in the container, unless recovered would be released to the atmosphere when the cylinder is disposed of, with associated adverse consequences on the environment.

EPA is proposing to prohibit the import and placement of HFCs in disposable cylinders beginning July 1, 2023. Prohibiting the use of disposable cylinders, such as DOT–39 non-refillable cylinders, would increase environmental benefit including by ensuring the heels left in a cylinder are not released to the atmosphere when disposable cylinders are discarded. At least on two occasions, Congress has requested that EPA study the use of refillable cylinders. EPA reviewed previous studies and has provided updated analysis in a technical support document that can be found in the docket for this rulemaking. EPA estimates that replacing disposable cylinders with refillable cylinders in the United States would prevent the release of up to 5.2 $MMTCO_2e$ of HFCs per year.

In addition to the potential environmental benefit, adding a prohibition on the import and placement of HFCs in disposable cylinders would help ensure compliance with the consumption allowance system. EPA understands that other countries, such as the EU member states, have found advantages to prohibiting disposable cylinders including a recognition that often HFCs entering their markets illegally are contained in disposable cylinders. Several studies have found that illegal HFCs are entering European markets in disposable cylinders.[74] Prohibiting the use of disposable cylinders in the United States would provide CBP officers the ability to conduct a quick visual inspection to identify potentially illegal imports for follow-up.

EPA recognizes that the vast majority of HFCs packaged in 25-pound cylinders currently use DOT–39 disposable cylinders. Therefore, EPA is proposing to prohibit the import and placement of HFCs in disposable cylinders beginning July 1, 2023. Since similar prohibitions have been successfully implemented in many other countries, EPA does not consider a longer lead time necessary but does recognize that a prohibition consistent with the effective date of the final rule may be too short to allow for an orderly transition.

In developing this proposal, EPA considered one to two years from the publication of the final rule to transition to refillable cylinders. EPA is proposing that a compliance date of July 1, 2023, would provide appropriate time but is requesting comment on a shorter timeframe. EPA is not proposing a compliance date after January 1, 2024, since EPA wants to ensure that HFCs in heels are not vented or otherwise go unused in order to meet demand when the next stepwise reduction in production and consumption occurs. Therefore, EPA is proposing to prohibit the import and placement of HFCs in DOT–39 and other disposable cylinders starting July 1, 2023, in advance of the step down in production and consumption that occurs on January 1, 2024. This timing also supports the proposal to establish a certification system for tracking legally imported and produced HFCs. EPA is also proposing to require that all refillable cylinders have a unique etched serial number. As noted later in the proposal, this etched number would be useful under the proposed certification identification and labeling requirements.

Following the July 1, 2023, ban on disposable cylinders, EPA is proposing to still allow certain disposable containers, such as small cans of refrigerant with a self-sealing valve, that meet the requirements in 40 CFR 82.154(c)(2). These containers have a mechanism in place to reduce emissions, so there would not be the same environmental benefit from their ban as EPA perceives in banning all other disposable cylinders. For a more complete discussion of the ways self-sealing valves reduce emissions of refrigerant, see 81 FR 82272 (November 18, 2016).

EPA is considering how best to address disposable cylinders that are in existing inventory on July 1, 2023, and invites comment on this issue. This compliance date may provide sufficient time and notice to this industry to transition into refillable cylinders such that no special accommodation is needed. However, EPA could establish a limited sell-through provision, such as for six months, on the condition that

[74] ''Illegal Refrigerant Imports Could Be as Much as One Third of EU Market.'' *Fluorocarbons.org,* The European FluoroCarbons Technical Committee, June 26, 2020. *www.fluorocarbons.org/wp-content/uploads/2020/09/EFCTC_Press-Release_EN–2.pdf.* ''Doors Wide Open.'' *Eia-International.org,* Environmental Investigation Agency, Apr. 2019, *https://reports.eia-international.org/doorswideopen.*

anyone wishing to sell HFCs in a disposable cylinder after January 1, 2024, from their existing inventory would have to register each cylinder with EPA no later than November 15, 2023, and provide information on the HFC or HFC blend in each cylinder and the origin of the cylinders (*e.g.,* imported, purchased from supplier X on Y date) to distinguish them from new refrigerant cylinders entering the market. To support effective enforcement and compliance of the ban, EPA is proposing that as of January 1, 2025, 18 months after the disposable cylinders ban takes effect, EPA would prohibit the sale or offer for sale of regulated substances contained in disposable cylinders. Eighteen months should be sufficient to allow for existing inventory of regulated substances contained in disposable cylinders to be sold or transferred to refillable cylinders. EPA requests comment on whether 18 months is an appropriate length of time for cylinders to work their way through the market, or if more or less time is warranted.

2. Ban on Importing HFCs To Be Used in Feedstocks in Cylinders

EPA is proposing to prohibit the import of HFCs intended for use in a process resulting in their transformation or destruction in cylinders designed to hold 100 pounds or less of a regulated substance. As discussed in section VIII.F. of this preamble, EPA is proposing that such HFCs may be imported without a consumption allowance. These HFCs are typically imported, and used, in large volumes at specific facilities. EPA does not anticipate this proposal would affect current business practice. Instead, this proposal is intended to deter attempts to claim that imports of HFCs in cylinders do not require allowances because they are for transformation or destruction processes. EPA requests comment on the typical container size for HFCs sold for use in a process resulting in their transformation or destruction, and whether 100 pounds is an appropriate threshold for this requirement. The Agency expects it could be higher than 100 pounds, but takes comment on whether to finalize a higher or lower threshold.

3. Labeling

EPA is proposing that all containers that contain a regulated substance in bulk (*e.g.,* ISO tanks, drums, cylinders of any size, or small cans) must have an affixed label or other marking that indicates the specific HFC(s) in that container. Specifically, EPA is proposing that all containers of bulk regulated substances should state, legibly and indelibly, in numbers and letters at least 1/8 inch high, the common name of the HFC or HFC blend contained, and the composition and ratios of the HFCs if a blend. This font size is consistent with the DOT–39 labeling standards (see 49 CFR 178.65). EPA seeks comment on whether the label should also include the quantity of HFC in the container. EPA does not anticipate that this proposal would result in any additional burden on refrigerant distributors or importers as such identification is the current practice. EPA requests comment on this presumption and whether there would be any burden associated with this proposal.

This proposal is intended to facilitate more effective enforcement and deter future noncompliance. EPA anticipates that smugglers will misidentify HFCs as some other compressed gas to evade import restrictions. One method used to illegally import ODS refrigerants was to identify it as an HFC, since allowances were not required to import HFCs at that time. Under this method of illegal import, once the unidentified or misidentified regulated substance entered the United States a domestic counterpart who knew the true identity of the compressed gas would relabel the cylinder with the correct substance so that it could be commercially useful. As such, EPA is also proposing that repackaging material that was initially unlabeled or mislabeled would be considered a knowing violation of this subpart.

EPA is also aware that some virgin material may not contain components in ratios that match that required of the blend. While historically that may have been due to the refrigerant being of low quality, there are now incentives for importers to intentionally misstate the contents which has implications for the allocation system. Mislabeling a blend that has a high EVe as a blend with a lower EVe or labeling a cylinder with a random mixture of HFCs as a particular blend both are misrepresentations that would cost allowances that do not reflect the actual contents of the cylinder. Such violations would hinder the Agency in meeting the requirement under subsection (e)(2)(B) of the AIM Act that EPA is charged with ''ensur[ing] that the annual quantity of all regulated substances produced or consumed in the United States does not exceed'' the statutorily prescribed phasedown schedule. This proposal is aimed at helping ensure EPA meets the directive of subsection (e)(2)(B).

To provide a way to check the accuracy of the label, EPA is proposing to require producers and importers to batch test their product and retain records indicating the results of the batch testing. EPA invites comment on how to best implement this proposal.

EPA also requests comment on whether to require that containers purporting to contain a specific HFC or an ASHRAE designated blend with an HFC component meet the specifications in Appendix A to subpart F of part 82—Specifications for Refrigerants. Currently, under the CAA section 608 regulations, reclaimed refrigerant is required to meet specifications based in large part on the AHRI–700 standard for purity before it can be released into the market. Based on input from industry, EPA is now aware that virgin material potentially could include impurities or that the ratio of components in a blend do not match that required of the blend.[75]

If the bill of lading or other evidence suggests that cylinders contain HFCs but the cylinder itself is not labeled or the labeling is illegible, EPA is proposing to presume that the container is completely full of HFC–23, unless the importer verifies the contents with independent laboratory testing results and fixes the label on the container before the container enters interstate commerce. Under this proposal, a company would have to expend the requisite allowances to import HFC–23 in order to be able to legally bring the unlabeled HFCs into interstate commerce (*i.e.,* clear Customs). The company could also choose to have the shipment held at port until they can arrange for testing to show what the contents are and would need to relabel the container before clearing Customs and enter interstate commerce. The goal of this presumption is to deter illegal activity and promote accurate and clear labeling, while also simplifying the process for EPA, in coordination with CBP for imports, to deduct a sufficient number of allowances at the point of import. HFC identifiers and a certified laboratory to verify the contents of a container may not be available, for example at a port, so providing a clear presumption that could be used in such circumstances would facilitate compliance and enforcement efforts. This proposal would reduce the safety risk of having unlabeled cylinders at Customs or in commerce. It would also reduce the potential to damage

[75] See Air Conditioning, Heating, and Refrigeration Institute (2013). Reports of R–134a Contaminated with R–40 and Other Refrigerants [White paper]. *https://www.ahrinet.org/App_Content/ahri/files/News%20Room/Press%20Releases/2013/AHRI_R_40_Contamination_white_paper.pdf.*

equipment resulting in the release of refrigerant and harm to the environment. EPA requests comment on appropriate measures to deter the import of unlabeled cylinders. EPA also requests comment on whether the agency should instead simply deny entry or ban import of such unlabeled cylinders.

E. What is EPA proposing to require for auditing?

EPA is proposing to require external audits performed by certified public accountants (CPAs) on an annual basis for all producers, importers and reclaimers to improve the integrity of the allocation program. An audit would be a systematic review of financial records and other transaction documents to verify that the annual reports provided to EPA are accurate. EPA is proposing to require external audits conducted by an independent accountant or auditor in the United States that is certified by the American Institute of Certified Public Accountants. EPA is soliciting comments on additional ways to ensure the independence of auditors and integrity of the auditing process, including potential compliance-related efforts.

Numerous economic studies have found that third-party auditing improves company and individual compliance with the law.[76] [77] [78] EPA has used third-party auditing to improve regulatory compliance in rules, including the Renewable Fuels Standard (79 FR 42080). As noted in the Renewable Fuels Standard rulemaking, there is expert consensus that well-implemented third-party auditing is a good use of limited enforcement and oversight resources. Independent and objective audits are a valuable tool to improve compliance and accuracy among all companies, not just those with covert malicious intent to be inaccurate or unfair in their auditing or reporting.

EPA is proposing that entities subject to the reporting requirement have auditors review the reports they provide to the Agency, and the inputs for developing those reports, to ensure that they were complete and accurate. At a minimum, reporters would have auditors review, as appropriate:

- The amount of production and consumption allowances allocated;
- The amount, timing, and parties to allowance transfers, and the associated documentation and offset amount;
- The amount of HFCs imported, exported, produced, destroyed, transformed, or reclaimed;
- For allocation-specific allowances, the amounts of allowances conferred, HFCs purchased, the specific application for which the HFCs were provided, and the names, telephone numbers, and email addresses for contact persons for the recipient companies;
- The date and the port from which HFCs were imported or exported;
- A copy of the bill of lading and the invoice indicating the quantity of HFCs imported or exported;
- Relevant commodity codes;
- The number and type of railcars, ISO tanks, individual cylinders or drums, small cans, or other containers used to store and transport HFCs;
- List of QR codes used and the digital transaction history associated with those codes; and
- Other information deemed relevant.
- EPA is proposing that the third-party auditor would send the results of their audit directly to EPA no later than May 31 of the subsequent year. EPA is proposing May 31st because it should allow sufficient time after the annual reports are due to conduct an audit.

EPA solicits comments on requiring an annual audit performed by a CPA covering the elements listed in this section. Among other topics, the Agency is interested in comments on the frequency of the audits, the qualifications of the auditors, and the timing for submission of the audits to EPA. Recognizing there is a cost for an audit regardless of the size and there may be less environmental value in requiring an audit for a company reporting small volumes of HFCs, EPA also seeks comment on whether it should limit the frequency of audits for companies that report less than 25,000 MTEVe. EPA also seeks comment on whether the auditor should review additional records, such as records of raw materials and feedstock chemicals used at each facility for the production of regulated substances, or whether that type of review would be more appropriate for an engineer.

F. Petitions To Import HFCs as a Feedstock or for Destruction

EPA is proposing that all bulk imports of HFCs into the United States either require the expenditure of consumption allowances or be authorized through a non-objection notice issued by EPA. This section discusses EPA's proposal to establish a petition process to authorize entities to import HFCs without expending allowances. There are two types of shipments addressed in this subsection. First, virgin HFCs are imported for use in a process resulting in their transformation (*i.e.,* as feedstocks) or destruction. Second, used HFCs are imported into the United States to be disposed of at a destruction facility using an approved destruction technology.

The definition of ''produce'' in section (b) of the AIM Act excludes the manufacture of a regulated substance that is used and entirely consumed (except for trace quantities) in the manufacture of another chemical. The process is known as transformation and the regulated substances used and consumed are called feedstocks. HFCs used for transformation are exempt from production, and therefore consumption, and do not require allowances. Typically, companies that need HFCs for feedstock use create the HFCs at the same facility, but HFCs can also be transported from another location. This is called second-party transformation. This proposal addresses the risk of unlawful behavior associated with transporting feedstock HFCs.

With respect to destruction of HFCs that have been used and recovered, these chemicals can become contaminated beyond the point that reclamation is economical. Providing a pathway for proper disposal of these used HFCs within the United States can benefit the environment and the domestic destruction industry. EPA is proposing to limit the petition process for destruction to used HFCs, and require consumption allowances to be expended to import virgin HFCs, to keep this process narrow and tailored in an effort to reduce the potential for illegal imports.

EPA is proposing a petition process based in large part on the one found in 40 CFR 82.13(g)(5) and 82.24(c)(6) for the import of used ODS for destruction. EPA proposes to require the importer of HFCs for feedstocks or destruction to submit a petition to EPA at least 30 working days before the shipment's departure from the foreign port. EPA is proposing other elements to verify that these imports will in fact be transformed or destroyed.

[76] Esther Duflo, Michael Greenstone, Rohini Pande, and Nicholas Ryan, ''Truth-Telling by Third-Party Auditors and the Response of Polluting Firms: Experimental Evidence from India,'' *Journal of Economics* (2013), 1499–1545. *doi:10.1093/qje/qjt024.*

[77] Henrik Kleven, Martin Knudsen, Claus Kreiner, Søren Pedersen, and Emmanuel Saez, ''Unwilling or Unable to Cheat? Evidence From a Tax Audit Experiment in Denmark.'' *Econometrica,* 79: 651–692. (2011) *https://doi.org/10.3982/ECTA9113.*

[78] Marcelo Bérgolo, Rodrigo Ceni, Guillermo Cruces, Matias Giaccobasso, and Ricardo Perez-Truglia, ''Tax Audits as Scarecrows: Evidence from a Large-Scale Field Experiment,'' NBER Working Paper No. 23631 July 2017, Revised January 2020 JEL No. C93, H26, K42.

Specifically, EPA proposes that the petition would include the following elements: (i) Name, commodity code, and quantity in kilograms of each regulated substance to be imported; (ii) name and address of the importer, the importer ID number, and the contact person's name, email address, and phone number; (iii) name and address of the consignee and the contact person's name, email address, and phone number; (iv) source country; (v) the U.S. port of entry for the import, the expected date of import, and the vessel transporting the material. If at the time of submitting the petition the importer does not know the U.S. port of entry, the expected date of shipment and the vessel transporting the material, and the importer receives a non-objection notice for the individual shipment in the petition, the importer is required to notify the relevant Agency official of this information prior to the entry of the individual shipment into the United States; (vi) name and address of any intermediary who will hold the material before the HFCs are transformed or destroyed; and (vi) name, address, contact person, email address, and phone number of the responsible party at the transformation or destruction facility; and (vii) an English translation, if needed, of the export license (or application for an export license) from the appropriate government agency in the country of export.

Within 30 working days of receiving a complete petition, EPA would send either a non-objection notice or an objection notice to the petitioner. The Agency may object to the petition if the petition provides insufficient information or if it contains or is suspected to contain false or misleading information. A petitioner may re-petition once if the Agency indicated ''insufficient information'' as the basis for the objection notice.

EPA is proposing that HFCs imported under this process for transformation or destruction be transformed or destroyed, as applicable, within 60 days of being imported into the United States. EPA is taking comment on whether it should consider a longer timeframe such as 90 days. EPA is also taking comment on whether it is appropriate to allow a longer timeframe for regulated substances to be used as feedstocks, up to 12 months. EPA is also proposing to require that the petitioner submit records indicating that the substance has been transformed or destroyed within 45 days after its transformation or destruction. EPA is also proposing supporting prohibitions in § 84.5 for provisions that will be similar to 40 CFR 82.4(j)(2) and 82.15(b)(3) to prohibit the import of HFCs for processes that result in their transformation or destruction, or disposal by destruction, without having received a non-objection notice consistent with this petition process.

By providing an importer with documentation that the import is authorized, this proposal would both expedite Customs clearance and result in a more secure border. It would prevent an importer from falsely claiming that their shipment does not require allowances or authorization from EPA because it is exempted. It also would track the movement of the import after entering the United States by attaching reporting obligations of the transformer or destruction facility.

EPA requests comment on other approaches to prevent the import of HFCs mislabeled as feedstock or intended for disposal by destruction. For example, EPA is considering whether a notification to EPA, rather than a petition, could be sufficient in preventing unlawful trade. Alternatively, EPA could require importers to register with the agency to be able to import HFCs for transformation and destruction uses or disposal and/or participate in the QR code tracking system.

G. How is EPA proposing to track the movement of HFCs in commerce?

The Agency is proposing to establish a certification program that would use tracking or identification technology such as QR codes [79] or some other tracking identifier to track the sale and distribution of HFCs starting January 1, 2024. This proposal seeks to ensure that HFCs introduced into and distributed or sold in the United States are covered by an allowance or were reclaimed. Distribution and sale of HFCs that did not enter the market legally would lack a certification and thus could be easily identified. This program would support compliance and, where needed, enforcement action. Buyers would also be able to know that they are purchasing legal HFCs. EPA is taking comment on the proposals related to this electronic tracking system including ways to make it simple and not burdensome to use, while maintaining the same functionality including the ability to report electronically.

Under this proposal, EPA would assign certification IDs to producers and importers based on the quantity of production and consumption allowances they have. As allowances are expended, the certification IDs associated with those allowances would be assigned to the corresponding HFCs, prior to the shipment of HFCs clearing Customs or being readied for transport from a production facility. For imports, the appropriate QR code would need to be affixed prior to clearing Customs so the certificates could be confirmed by Customs while still at the port. The certification system would be linked to the allowance allocation to ensure that allowances were obtained for each MTEVe produced or imported. The certification would be tracked using a physical label containing a QR code affixed to the container in which the material was sold after being produced in the United States or imported. When the QR code is scanned it would point to a website with a database that would indicate at least the initial allowance holder, the quantity and common name of the HFC, the name it is currently being marketed under, and the date of production or import.

Each time the material is bought/sold, or partitioned into another container, the tracking information would be updated. If HFCs are blended, the database entry for the identifier for that container would be updated by the blender to reflect that new information. EPA would establish protocols that ensure once the tracking information is entered, the system would not allow the data to be altered retroactively, thereby preserving the integrity of the information. EPA is proposing that the certification continue to be tracked until it is sold to the final customer. The final customer will differ depending on the use of the HFCs. For example, EPA would consider an aerosol filler to be the final customer given the HFCs are being incorporated into a product. Similarly, a factory charging HFC refrigerant into an appliance would be the final customer. HFCs used in field charged or field serviced applications would continue to have the certification accompany them until they are sold to a contractor or technician.

EPA's general understanding of the supply chain is that HFCs (from production or import) are shipped in large ISO tanks, individual cylinders or drums, and small cans. The material is then sold to entities that would be considered part of the distribution chain—that is, the entity is neither the importer nor the end user (such as a

[79] A QR code is a type of matrix barcode that contains data for a locator, identifier, or tracker that points to a website or application using standardized encoding modes to store data. It is recognizable as black squares arranged in a square grid on a white background, which can be read by an imaging device such as a camera. In this proposed rule we use the phrase QR code as a stand-in for 'physical media that facilitate digital inventory tracking'. The final rule may or may not require QR codes specifically (bar codes and RFID chips are other possibilities, for example).

refrigeration or air conditioning contractor). The material may change hands one or more times before it is purchased by the final entity in the distribution chain and subsequently sold to the final customer. EPA is proposing that anyone selling HFCs would need to be registered in the system to allow for legal HFC to be tracked from the point of introduction into commerce to the point of sale to the final customer (*i.e.,* the person that will use the HFC) so that any illegal HFC offered for sale at any point in the distribution chain could be identified. Sellers would need to scan the containers as they are sold, and buyers who intend to sell the HFCs, other than the final customer, would need to do the same. EPA seeks comment on ways it could minimize burden for users, such as allowing for whole purchases or pallets to be scanned under one code, or having the system capture the information in a way where no or limited data entry is required once logged into the system.

Anyone who is filling a container or cylinder, whether for the first time or when transferring HFC from one container to one or more smaller or larger containers, would be required to enter information in the system and generate a new QR code for the new containers and add information on: the brand it would be sold under, the quantity and composition of HFC(s) in the container, the date it was packaged or repackaged, the certification IDs associated with the HFCs (if being repackaged), the quantity of containers it was packaged in, and the size of the containers. EPA is providing additional information in the docket concerning the supply chain for HFCs and the entities we believe are potentially affected by this system, and seeks comment on whether there are other entities that are not reflected in the memo. EPA also seeks comment on whether exporters should have to register and note when they export HFCs, such as destination, date of export, the certification IDs associated with the containers exported, and other Customs records (including bills of lading), to support the proposed reimbursement of allowances when HFCs produced or imported with allowances are exported.

EPA recognizes that not all HFCs would enter the market through the expenditure of an allowance. Most significantly, HFCs recovered in the field (*e.g.,* refrigerants) are sent for reclamation and can be resold into the market after they meet specific purity standards. Under the CAA section 608 regulations, reclaimers must be certified by EPA and report the amounts and names of the HFCs reclaimed on an annual basis. EPA would generate certification IDs for the reclaimer in an amount equal to the quantity reclaimed in the previous year plus an amount based on the average annual growth in total U.S. HFC reclamation in the prior three years or five percent, whichever is higher. EPA anticipates reclamation will increase over time. Reclaimers could request additional certification IDs from EPA if the initial distribution was insufficient and the reclaimer provides information to the Agency that can allow the Agency to confirm that additional reclamation is occuring. The data behind that QR code would be similar to that for HFCs produced or imported with allowances but would indicate that it is reclaimed and list the reclaimer.

To ensure regulated HFCs sold by reclaimers are legally reclaimed material and eligible for sale, EPA is proposing that reclaimers would need to log into the certification ID tracking system and, for each container of HFCs prior to selling regulated substances, provide information like the date the HFC was reclaimed and by whom; what regulated substance(s) (and/or the blend containing regulated substances) is in the container; how many kilograms were put in the container and on what date the container was filled; whether the purity of the batch was confirmed to meet the specifications in appendix A to 40 CFR part 82, subpart F; on what date the batch was tested; and who certified it met the specifications. If a container is filled with reclaimed and virgin HFC(s), EPA proposes that the reclaimer would have to also provide information on how much virgin HFC was used and what the origin of that material was (*e.g.,* the certificate IDs associated with that material). EPA expects there could be a way to build in a batch feature so the reclaimer could enter a total mass of HFCs that are reclaimed and a total mass of HFCs that are virgin and the certification IDs associated with the QR code on each of the containers would reflect the relative percentage of reclaimed and virgin material associated with each container, assuming the virgin and reclaimed HFCs were evenly mixed before being put into the new containers.

EPA is also aware that under CAA sections 608 and 609, recovered HFC refrigerant can be resold if it was used only in a motor vehicle air conditioner (MVAC) or MVAC-like appliance and is to be used only in an MVAC or MVAC-like appliance and recycled in accordance with 40 CFR part 82, subpart B (see 40 CFR 82.154(d)). EPA is proposing to allow this practice to continue without requiring registration in the certification identification system. EPA requests comment on whether additional recordkeeping and/or reporting should be required, such as the total quantity of HFCs purchased, recovered, recycled on-site, sent off-site for reclamation or destruction, and charged into MVACs. If someone is selling bulk HFC, other than for use by that company for servicing MVACs, for example to another auto shop, they would need to be registered in the certification ID tracking system.

EPA recognizes that a large quantity of HFCs will already be in the United States market prior to the finalization of this rule. Therefore, the Agency is proposing a compliance date of January 1, 2024, for these provisions. That would allow time for much of the HFCs in the distribution chain prior to that date to work its way through the supply chain. EPA is proposing that as of January 1, 2024, it would be unlawful to sell or distribute HFCs in a container that does not bear a legible QR code. The sale and purchase of uncertified HFC (or HFC in a container without a legible QR code) would be illegal and subject to civil and criminal enforcement to prevent smuggling and/or bypassing of the exchange system.

EPA proposes that anyone wishing to sell HFCs produced, imported, or reclaimed prior to January 1, 2024, must register each container of HFC with EPA no later than November 15, 2023, for EPA to assign a certification ID for each container. The registration must provide information on the amount(s) and type(s) of HFCs and HFC blends, the containers the HFC material is in, any unique identification numbers assigned to the containers, and the origin of the HFC(s) (*e.g.,* imported, purchased from supplier ''X'' on Y date) to verify they were legally imported. EPA would assign the appropriate certification ID for each container of HFCs if sufficient documentation is provided. EPA is concerned that smugglers could attempt to register illegally imported material through the process and seeks comment on whether additional requirements are needed to ensure illegal HFCs are not receiving certification IDs that would in effect make them legal. EPA is proposing to require a one-time report for anyone who requests certification IDs for previously imported, produced, or reclaimed HFCs including the company's inventory levels as of December 31 for the prior three to five years, so EPA could assess whether there was significant upward growth during that time. EPA could also require a random audit of the company's

records to ensure the information provided to EPA is accurate. EPA could also establish administrative consequences for suppliers that are found to not be in compliance or who have misrepresented information to EPA.

Most buyers desire to purchase only legal HFCs. However, in the absence of a way to distinguish between legal and illegal HFCs, buyers could unwittingly buy illegal HFCs and may be unintentionally supporting the demand for and trade in illegal HFCs. For example, in an enforcement case that concluded in 2018,[80] there was evidence that cylinders likely imported without allowances were bought and sold by multiple suppliers before they were finally determined to be counterfeit and likely illegally imported. There was no evidence that anyone in the supply chain knew the material was likely illegally imported other than the importer until the final purchaser noticed the refrigerant was off-spec and in a cylinder that did not match the typical packaging for that brand of product. For this reason, it is important to involve both the buyer and seller in the accountability process and provide the buyer with accurate information on the origin of the HFCs they intend to purchase.

EPA views the use of QR codes that would be generated by EPA for production, import, and reclamation of HFCs as an alternative to a more burdensome recordkeeping option described below in this paragraph. EPA seeks comment on whether such a recordkeeping and reporting provision, that would not be not backed up by an EPA electronic system, would be appropriate in lieu of a system based on electronic reporting. EPA seeks comment on whether such a recordkeeping and reporting provision, which would not be backed up by an EPA electronic system, would be appropriate in lieu of a system based on electronic reporting. This type of approach might still require a QR code, additional label, or other identifier be affixed on each container at the point of import, to allow for CBP to verify the contents of the container and/or to identify the importer, or once the produced or reclaimed material is first put into a container. But the movement of HFC material would not necessarily be reported in real-time by market actors by scanning those codes. Instead, detailed recordkeeping, and potentially reporting requirements, would be used to document every sale of HFCs to verify the chain of custody from the point of production, import, or reclamation to the end user or final seller of the HFC. EPA could also require a signed statement between the buyer and the seller verifying that the material being sold was acquired legally (*e.g.,* imported or produced with allowances). As part of the paperwork, the seller would have to maintain records of the prior seller(s) back to the point of production, import or reclamation. EPA could also require this information be reported regularly to the Agency, similar to the requirements for Renewable Identification Numbers (RINs) under the Renewable Fuels Standard. If EPA were to require substantial recordkeeping and reporting it could create additional burden for all parties, and those at the end of the distribution chain, frequently small businesses, could be disproportionately impacted. As a result, EPA is proposing a more streamlined approach and would develop an IT system that could simplify this process and store the appropriate records and data needed to verify the chain of custody of HFCs.

EPA is soliciting comment on establishing a certification program that would follow the HFC through the supply chain including instances where the HFCs are repackaged and/or blended as described above. EPA solicits comment on alternatives to the proposed QR code mechanism, including not relying on physical media attached to the shipment, and other means to access a database. EPA understands that many companies, including companies producing, importing, and reclaiming HFCs already use digital inventory systems. EPA welcomes feedback on how it could set up such a system. EPA also welcomes comments on how to streamline data entry by entities that subsequently purchase the material after the legal HFCs are assigned a tracking ID, including the use of QR codes, starting January 1, 2024. EPA is also requesting comment on the January 1, 2024, compliance date, which would align with the proposed 2024 reduction in production and consumption and would follow closely behind the proposed prohibition on the use of disposable cylinders.

If EPA were to finalize a certification ID tracking system with QR codes, EPA is proposing to release several data elements associated with each container of HFCs to potential buyers of HFC material, to support this system. To allow buyers of HFCs to determine whether the HFC they are purchasing is legal to buy, EPA proposes to release the following information: (1) Whether the HFC being sold is legal to purchase based on existing records; (2) when the HFC was produced, imported, or reclaimed and by whom; (3) what HFCs are included in the container; (4) if reclaimed HFC, whether the purity of the batch was confirmed to meet the refrigerant purity standard in appendix A to 40 CFR part 82, subpart F (based on AHRI 700–2016), when was that confirmed, and by whom; (5) what the brand name associated with the container is; and (6) all prior sales of the certification ID associated with a container of HFCs.

As noted previously, certification-specific data would accompany each kilogram of HFC moving through commerce (as tracked with a QR code). While EPA sees value in releasing all of these data to the general public in a comprehensive database both for transparency and to enable the certification ID tracking system to fully operate in support of overall program compliance, EPA anticipates that if all information was publicly available in the database, item (6) could potentially divulge information submitters customarily keep private or closely held. For example, if all the data in the database were available publicly without the need to scan every container of HFCs, someone could identify the total amount of each HFC produced or imported by a company in a given year and all the customers associated with a given producer or importer. EPA is seeking comment on whether submitters consider the information submitted for item (6) to be information they customarily keep private or closely held. If so, the Agency will make a decision in the final rule as to whether the Agency will provide an express assurance of confidentiality for the information and how it will protect that information from unauthorized disclosure.

Alternatively, to protect information submitters may customarily consider to be private or closely held, and to assuage concerns about divulging information in item (6), EPA proposes to not to make the full dataset available publicly. The Agency could limit the ability to view the data for a single container (or full shipment of containers) to the current buyer and seller. EPA sees several ways this could work. The Agency could restrict access to the system, so only registered users could scan a QR code, and a user would only be able to view active codes that they had scanned into their ''inventory.'' EPA could also limit the ability of an individual to view data in the system to within a certain time

[80] ''O.C. Man Pleads Guilty to Illegal Sales of Ozone-Depleting Refrigerant.'' *The Orange County Register,* Nov. 2018, *www.ocregister.com/2018/03/08/o-c-man-pleads-guilty-to-illegal-sales-of-ozone-depleting-refrigerant.*

period after scanning the code. EPA seeks comment on other ways to prevent the release of information submitters customarily consider confidential from such a system. If the Agency cannot identify a way to protect item (6), it could withhold that data element from inclusion in the publicly available data associated with the certificate tracking system.

IX. What are the proposed recordkeeping and reporting requirements?

Subsection (d)(1)(A) of the AIM Act specifies that on a periodic basis, but not less than annually, each company that, within the applicable reporting period, produces, imports, exports, destroys, transforms, uses as a process agent, or reclaims a regulated substance shall submit to EPA a report that describes, as applicable, the quantity of the regulated substance that the company: produced, imported, and exported; reclaimed; destroyed by a technology approved by the Administrator; used and entirely consumed (except for trace quantities) in the manufacture of another chemical; or, used as a process agent.

A. What generally applicable recordkeeping and reporting provisions is EPA proposing?

EPA is proposing recordkeeping and reporting requirements for any company that produces, imports, exports, transforms, uses as a process agent, reclaims, or destroys regulated substances as well as any company that receives an application-specific allowance. Given that the AIM Act controls all production and consumption of HFCs in the United States, and data on import, export, destruction, reclaim, feedstock, and process agent use are relevant to determining national production and consumption figures, all companies would be subject to the proposed recordkeeping and reporting requirements. In other words, under this proposal, there would be no minimum threshold for reporting. The AIM Act in subsection (d)(1)(A) provides EPA with clear authority to establish reporting requirements that apply to ''*each* person who, within the applicable reporting period, produces, imports, exports, destroys, transforms, uses as a process agent, or reclaims a regulated substance'' (emphasis added).

Unless otherwise specified, such as for application-specific allowance holders, EPA is proposing to require quarterly reporting. Quarterly reporting helps to ensure that annual production and consumption limits are not exceeded. The proposed frequency is necessary for the Agency to review allowance transfer requests, of which remaining allowances is a major component of the Agency's decision. In EPA's experience, many companies have expressed their preference for and found it easier to compile reports for a given quarter than to compile an annual report.

EPA is proposing that reports required by this section be submitted to the Administrator within 45 days of the end of the applicable reporting period, unless otherwise specified. Quantities would be stated in terms of kilograms for each regulated substance unless otherwise specified. The report would need to be signed and attested by a responsible officer (EPA is proposing to consider an appropriate responsibility officer to match the meaning of the CAA (42 U.S.C. 7401 *et seq.*)) and copies of records and reports would need to be retained for five years.

EPA is proposing that reports required by any regulations finalized in this rulemaking be submitted electronically using the EPA's Central Data Exchange (CDX) through e-GGRT. EPA is working to minimize duplicative reporting between the AIM Act and the GHGRP and having reporting done through e-GGRT will aid in the synchronization of these systems. EPA is also proposing that reports be at the facility-level, and not at the corporate-level, which will also add in synchronization between these two programs and better allow utilization of the e-GGRT system. Reporting at the facility-level will also provide finer detail to aid in EPA's review of compliance throughout the system.

B. What recordkeeping and reporting is EPA proposing that is applicable to specific types of entities?

This section presents a general overview of the types of records and reports EPA is proposing. EPA encourages readers to review the proposed regulatory text for the full reporting requirements.

Producers

EPA is proposing to require a one-time report from producers to allow the Agency to understand how production volumes are measured, the quantity of fugitive losses, the efficiency of the production process for the regulated substance, the production capacity of their facilities, and a description of any use of a regulated substance as a process agent. Such information will allow EPA to better understand the monitoring in place, the accuracy of reporting, and the likelihood of emissions associated with production.

EPA is proposing to require quarterly reporting of data that includes the quantity of each regulated substance produced, the quantity of allowances expended, and quantities produced for transformation or destruction. EPA is proposing quarterly reporting to ensure that annual production and consumption limits are not exceeded. It is also needed for EPA to be able to review allowance transfer requests, of which remaining allowances is a major component of EPA's review. EPA is taking comment on whether these reports need to be submitted quarterly or could be submitted less frequently.

EPA is proposing that producers report any companies that conferred application-specific allowances to the producer and the quantity conferred. Producers would also report the quantities of regulated substances sold for those applications, specifying amounts produced using conferred application-specific allowances and amounts produced with production and consumption allowances. This additional reporting on production for allocation-specific allowances would allow the Agency to track the use of application-specific allowances to confirm their appropriate use and calculate the level of production allowances needed in future years for the statutorily listed applications to ensure that EPA is allocating an appropriate amount.

EPA is proposing that companies that produce regulated substances maintain records similar to those for the ODS program. This includes, among other things: records of the quantity of each regulated substance produced at each facility; copies of invoices or receipts documenting sale of regulated substances for use in processes that result in their transformation or destruction, or use as a process agent; and records of raw materials and feedstock chemicals used at each facility for the production of regulated substances. In addition, EPA is proposing that producers keep records that distinguish between regulated substances produced with application-specific allowances and those produced with general pool production and consumption allowances for an application listed in (e)(4)(B)(iv) and the quantity sold for use in those applications. As outlined in the application-specific allowance section, EPA is proposing that end users that are allocated application-specific allowances certify that the regulated substances purchased through conferral of application-specific allowances were

purchased solely for use in the application listed on the allowance and will not be resold or used in any other manufacturing process. Similar to the essential use provisions for ODS, EPA is proposing that producers maintain copies of those certifications for all conferred application-specific allowances. EPA is also proposing that producers maintain dated records of the quantity of each regulated substance used at each facility as a process agent.

EPA is proposing that if a producer fails to keep records on their production or to submit reports regarding their production, EPA may determine that the producer produced at full capacity during the period for which records were not kept or reports were not submitted for purposes of determining possible violations. Producers would additionally be subject to enforcement for failure to keep records or submit reports.

Importers

EPA is proposing that companies that import regulated substances provide quarterly reports that include, among other things, the total quantity imported of each regulated substance for that quarter distinguishing between quantities of consumption allowances expended and quantities imported under the exemptions for processes resulting in transformation or destruction or used HFCs intended for destruction. Separating these categories is necessary to determine whether the HFCs imported count towards the consumption cap. EPA is also proposing that reports include the amount imported using conferred application-specific allowances to confirm their appropriate use and calculate the level of allowances needed in future years to ensure that EPA is allocating an appropriate amount. EPA is proposing quarterly reporting to ensure that annual production and consumption limits are not exceeded. It is also needed for EPA to be able to review allowance transfer requests, of which remaining allowances is a major component of EPA's review. EPA is taking comment on whether these reports need to be submitted quarterly or could be submitted less frequently.

EPA is proposing that companies that import regulated substances maintain records that form the basis of the reports outlined in the prior paragraph. For each shipment EPA is proposing that importers keep records of the following: the date on which the regulated substances were imported, the port of entry, the country of export, the importer number, the bill of lading, the invoice for the import, and the U.S. Customs entry number. EPA is proposing that the information on the bill of lading include the specific HFC(s) in the shipment, the volume of each HFC, and the correct HTS code to properly identify the HFC or HFC blend (*i.e.,* ''mixtures,'' in the terminology of the International Trade Commission). EPA notes that these codes are in the process of being updated so that most commonly traded HFCs will have their own code (or be grouped with minimally traded HFCs) and most major HFC blends will fall under separate codes. EPA is also proposing recordkeeping requirements for imports of used regulated substances for destruction under the process in § 84.25 including a copy of the petition to import for destruction, EPA non-objection notice, and documentation necessary to show that the regulated substance was destroyed.

Importers of Used HFCs for Destruction

EPA is proposing that entities that import used HFCs for destruction without expending consumption allowances in accordance with the procedures outlined in § 84.25 maintain for five years: a copy of the petition to import for destruction; the non-objection notice; a copy of the export license or export license application including an English translation thereof; U.S. Customs entry documents for the import that must include the commodity codes; records of that date, amount, and names of the regulated substance sent for destruction per shipment; an invoice from the destruction facility verifying shipment was received; and records from the destruction facility indicating the substances were destroyed.

Aggregators of Used HFCs Imported for Destruction

EPA is proposing that companies that aggregate used HFCs that were imported for destruction under the process in § 84.25 maintain documentation necessary to show that the regulated substance was destroyed, such as chain of custody information.

Transhipments

EPA is proposing reporting and recordkeeping requirements for any company that transhipps a regulated substance through the United States. EPA is proposing to require that the company notify EPA 30 days prior to a transhipment arriving at a U.S. port. The arrival notification must include the following information: (i) Name, commodity code, and quantity in kilograms of each regulated substance to be transhipped; (ii) name and address of the importer, the importer ID number, and the contact person's name, email address, and phone number; and (iii) the U.S. port of entry, the expected date of entry, and the vessel transporting the material. If at the time of submitting the petition the importer does not know this information, the importer is required to notify the Administrator of this information prior to the entry of the individual shipment into the United States.

Once the material has left the United States, EPA is proposing that the company provide a second notification indicating as such. The departure notification must include (i) name, commodity code, and quantity in kilograms of each regulated substance to be transhipped; and (ii) date and vessel transporting the material.

EPA is also proposing that the company maintain records that indicate that the regulated substance shipment (i) originated in a foreign country; (ii) is destined for another foreign country; and (iii) did not enter interstate commerce within the United States. EPA requests comment on whether EPA should also require monthly reporting (or other reporting frequencies) on the status of the HFCs held at a bonded warehouse.

Exporters

EPA is proposing that exporters provide a quarterly report that, among other things, includes the name, quantity, and commodity code of each regulated substance exported, the date on which, and the port from which, the regulated substances were exported from the United States, and the country to which the regulated substances were exported. EPA is proposing that any exporter of used regulated substances must indicate on the bill of lading or invoice that the regulated substance is used.

Second-Party Transformation or Destruction

EPA is proposing that any company that transforms or destroys regulated substances produced or imported by another company without expending allowances report annually on the names and quantities of the regulated substances transformed or destroyed for that year, and who they acquired those HFCs from. Companies would maintain records documenting, among other things, amounts purchased, transformed or destroyed, transformation or destruction verifications, and the names, commercial use, and quantities of the resulting chemical(s) when the regulated substances are transformed.

Transformation—EPA is proposing that any company that acquires regulated substances for purposes of transformation must provide the producer or importer with a transformation verification that the regulated substances are to be used in processes that result in their transformation. To ensure the accuracy of the verification, EPA is proposing that verifications only be valid for 60 days. However, EPA is taking comment on whether that should be extended to 12 months to provide more flexibility to companies transforming HFCs. EPA proposes that the transformation verification would include the following: (i) The identity, address, and contact information of the company intending to transform the regulated substances; (ii) the quantity of regulated substances intended for transformation; (iii) the identity of shipments by purchase order number(s), purchaser account number(s), location(s), or other means of identification; and, (iv) the period of time over which the company intends to transform the regulated substances.

Destruction—EPA is proposing that any company that purchases or receives and subsequently destroys regulated substances that were originally produced or imported without expending allowances shall provide the producer or importer from whom it purchased or received the regulated substances with a verification that the regulated substances will be used in processes that result in their destruction. EPA is proposing that the destruction verification include the following: (i) Identity and address of the company intending to destroy regulated substances; (ii) the destruction efficiency at which such substances will be destroyed; and, (iii) period of time over which the company intends to destroy regulated substances.

Transformation—In addition to the requirements outlined for entities undertaking second party transformation, EPA is proposing that any company that transforms a regulated substance provide EPA with a one-time report containing the following information: (i) A description of the transformation use; (ii) a description of all technologies and actions taken to minimize emissions of regulated substances; (iii) the name of the product manufactured in the process; (iv) a list of any coproducts, byproducts, or emissions from the production line of any regulated substance that are other regulated substances, ozone-depleting substances listed in 40 CFR part 82, subpart A, or hazardous air pollutants initially identified in Section 112 of the Clean Air Act, and as revised through rulemaking and codified in 40 CFR 63; (v) the estimated annual fugitive emissions by chemical associated with the transformation process; (vi) the anticipated ratio of regulated substance used for transformation to the amount of end product manufactured; and (vii) a mass balance equation of the transformation reaction.

Destruction—In addition to the requirements outlined for entities undertaking second party transformation, EPA is proposing that any company that destroys regulated substances, whether as part of a process or as a disposal method of used substances, provide EPA with a one-time report containing the following information: (i) The destruction unit's destruction efficiency; (ii) the methods used to record the volume destroyed; (iii) the methods used to determine destruction efficiency; and, (iv) the name of other relevant federal or state regulations that may apply to the destruction process. Any changes to the information in paragraphs (e)(4)(i), (ii), and (iii) of this section must be reflected in a revision to be submitted to EPA within 60 days of the change(s).

Companies That Transfer Allowances

As discussed in section VI.D. of this preamble, EPA is proposing to allow the transfer of allowances between companies. EPA proposes that both the transferer and transferee maintain a copy of the transfer request and a copy of EPA's non-objection notice.

Holders of Application-Specific Allowances

EPA is proposing recordkeeping and reporting provisions for holders of application-specific allowances that builds on EPA's experience with the requirements for ODS essential-use allowance holders.

Certification—EPA is proposing that any company issued application-specific allowances, or that receives application-specific allowances through a transfer, must certify to producers and importers when purchasing HFCs produced or imported using those allowances that the regulated substances were purchased solely for the specified application in subsection (e)(4)(B)(iv) of the Act and will not be resold or used for other purposes. A copy of the certification must also be maintained by the company who uses the HFCs produced or imported with those allowances.

Biannual Reporting—EPA is proposing that recipients of application-specific allowances report by July 31 and January 31 of each year. EPA is proposing biannual reporting so as to gather the data necessary to meet two objectives: To provide end-of-year accounting that must be coordinated with other annual reporting processes, and providing information early enough in the year for the Agency to determine by October 1 the quantity of application-specific allowances to allocate for the next year.

Specifically, EPA is proposing that recipients of application-specific allowances report the following information: (i) The quantity of each regulated substance that was used for their application during the previous six months; (ii) the quantity of regulated substances acquired through conferring allowances that were imported during the previous six months; (iii) the quantity of regulated substances acquired through conferring allowances that were produced domestically during the previous six months; (iv) the companies to which application-specific allowances were conferred; (v) the quantity of regulated substances purchased without expending application-specific allowances during the previous six months (*i.e.,* from the open market); (vi) the quantity of inventory of each regulated substance held by the reporting company or held under contract by another company for use on the last day of the previous six-month period (*i.e.,* December 31 and June 30); (vii) the quantity of each regulated substance contained in products exported by the company during the previous six months; and (viii) the quantity of each regulated substance that was destroyed or recycled during the previous six months.

EPA is proposing that the report due by July 31 of each year also include a request for application-specific allowances for the next calendar year which would include: Total quantity (in kilograms) of all regulated substances acquired and used in the previous three years; information on suppliers; whether HFCs were acquired through domestic production or import; whether HFCs were acquired through conferring allowances or from the general market; quantities held in inventory; and a description of any plans to transition to regulated substances with a lower exchange value or alternatives to regulated substances.

EPA is also proposing that entities allocated application-specific allowances maintain the following records: Records necessary to develop the biannual reports; a copy of certifications provided to producers and/or importers when conferring allowances; a copy of the annual

submission requesting application-specific allowances; invoice and order records related to the purchase of regulated substances; records related to the transfer of allocation-specific allowances to other entities; and records documenting the use of regulated substances.

Process Agents

EPA is proposing that any company that uses a regulated substance as a process agent provide EPA with a one-time report containing the following information: A description of the process agent use which includes details of the percentages of process agent retained within the process, recovered after the process, and emitted or entrained in the final product. The proposed one-time report would also include a description of all technologies and actions taken to minimize emissions of regulated substances; the name of the product and byproducts manufactured in the process; and the anticipated ratio of process agent emissions to end product manufactured.

EPA is also proposing that any company that uses a regulated substance as a process agent provide EPA with an annual report containing the following information: An email address and phone number for a primary contact person and for an alternate; the amount of regulated substance used as a process agent; the amount of product and the amount of byproducts manufactured (including amounts eventually destroyed or used as feedstock); the stack point source emissions; and a description of any HFC emission reduction actions planned or currently under investigation.

Reclaimers of HFCs

EPA is proposing that reclaimers report to EPA on the same schedule as for producers and importers—45 days after the end of each quarter (*e.g.,* February 14 for the period ending on December 31 of the prior year). The data elements would generally be the same as what they report under 40 CFR 82.164(d), with some modifications. EPA is proposing the reports contain information on the quantities of used, reclaimed, and virgin HFCs held in inventory onsite at the end of each quarter. EPA is also proposing that reclaimers submit a one-time report with similar information on inventory, as well as the name of the laboratory that conducts the batch testing and a signed statement from that laboratory confirming there is an ongoing business relationship with the reclaimer, providing the number of batches tested for each regulated substance or blend containing a regulated substance in the prior year, and providing the number of batches that did not meet the specifications in appendix A of 40 CFR part 82, subpart F in the prior year. Under this proposal, reclaimers would have to maintain those records for five years, instead of the three years required under 40 CFR part 82, subpart F. EPA also seeks comment on whether there are other entities that reprocess HFCs and resell them back into the market and if the existing universe of HFC reclaimers would be sufficient to satisfy the (d)(1)(A)(ii) requirements for reclaimers.

Under the existing regulations in subpart F codified at 40 CFR 82.164 reclaimers must also maintain records of the analyses conducted to verify that reclaimed refrigerant meets the necessary specifications prescribed in appendix A to 40 CFR part 82, subpart F, based on AHRI Standard 700–2016, and maintain records on a transaction basis for three years of the names and addresses of persons sending them material for reclamation and the quantity of the material (the combined mass of refrigerant and contaminants) by refrigerant sent to them for reclamation. EPA seeks comment on whether any reclaimers are selling HFCs for use in any of the six applications listed in subsection (e)(4)(B)(iv) of the AIM Act. EPA could consider finalizing additional reporting requirements for such sales, similar to the requirements for producers on the quantities of HFCs sold to users of HFCs for one of the six applications listed in the AIM Act. EPA also seeks comment if there are additional elements the Agency should be collecting such as quantities sent for destruction, data on reclamation from 2011—2013, quantity of inventory awaiting reclamation, or destruction to meet the requirements under the AIM Act.

Inventory

EPA is proposing that all producers, importers, exporters, and reclaimers of HFCs annually report the quantity of each HFC they hold in inventory as of December 31 of each year. For reclaimers, the report must include inventory of reclaimed and used HFCs awaiting reclamation or destruction. This information would be due 45 days after the end of the calendar year (February 14). EPA is proposing that the first annual inventory report be due by February 14, 2022, to provide data on inventory held at the end of 2021.

EPA is proposing to collect this information to help inform the Agency in its evaluation of petitions and/or requests submitted under the AIM Act. For example, subsection (e)(4)(B)(v) requires EPA to ''review the availability of substitutes, including any *quantities of the regulated substance available from reclaiming or prior production,*'' (emphasis added). Similar language is included in subsections (f) and (i) of the AIM Act. Annual reporting would facilitate the timely review of petitions and/or requests since this information would already be in the Agency's possession.

HFC–23 Emissions

For entities that own or operate facilities that generate HFC–23 beyond the exemption for insignificant quantities in the definition of production, EPA is proposing a one-time report containing the following information: (i) Information on the capacity to produce the intended chemical on the line where HFC–23 is also produced; (ii) description of actions taken at the facility to control the creation of HFC–23 and its emissions; (iii) identification of approved destruction technology and its location intended for use for HFC–23 destruction; and (iv) a copy of the DRE report associated with the destruction technology. EPA is further proposing that any changes to the information provided in the one-time report be reflected in a revision submitted to EPA within 60 days of the change(s).

EPA is also proposing to require annual reporting, to be submitted 45 days after the control period, for production line data on HFC–23 amounts: (i) Emitted; (ii) generated, whether captured or not; (iii) generated and captured for all uses; (iv) generated and captured for feedstock use in the United States; (v) generated and captured for destruction; (vi) used for feedstock without prior capture; and (vii) destroyed without prior capture. EPA is also soliciting comment on the frequency that this information should be submitted.

If captured HFC–23 is destroyed in a subsequent control period (*e.g.,* it is created and captured December 15 and destroyed January 15 in the following year), EPA is further proposing to require the entity that produced the HFC–23 submit records indicating the HFC–23 has been destroyed within 45 days after destruction occurs.

To ensure that reported values for HFC–23 generation, capture, transformation, and destruction are reliable, EPA is proposing to require entities to comply with certain monitoring and calculation provisions. Specifically, EPA is proposing to require entities to meet the same requirements as outlined in 40 CFR part 98, subpart

L or subpart OO, depending on the quantity being reported. These provisions include validated methods for measuring concentrations of HFC–23 in process streams and the mass flow rates of those streams; accuracy, precision, and calibration requirements for instrumentation; and specific calculation methods for uncontrolled emissions and for quantities transformed and destroyed. EPA proposes to include these reporting requirements to ensure that reported data are accurate, precise, and comparable over time and across facilities and companies.

Offramp

Subsection (d)(1)(C) of the AIM Act specifies that reporting is no longer required if a company notifies EPA that they have permanently ceased production, import, export, destruction, transformation, use as a process agent, or reclamation of all regulated substances. Any activity that occurs earlier in that year before the cessation of activities must still be reported for that year.

Other

Section (d)(1)(C)(iii) of the AIM Act states that each periodic report shall include, as applicable, the information described for the baseline period of 2011 through 2013. EPA interprets this provision as allowing the Agency to collect information necessary to establish the United States' production and consumption baselines. EPA reads the phrase ''as applicable'' to mean that every quarterly report does not need to reiterate that baseline information, only an initial report.

EPA discusses in section V. of this preamble methods by which EPA has collected, and continues to collect, data from the relevant entities. As noted previously, once the baselines are established, EPA does not intend to amend the values and thus any reporting of baseline data would be unnecessary.

C. How is EPA proposing to coordinate AIM Act reporting with other EPA reporting requirements?

Subsection (d)(2) of the AIM Act states that EPA may allow an entity subject to the AIM Act's reporting requirements ''to combine and include the information required to be reported under [the AIM Act] with any other related information that the [company] is required to report'' to EPA. This section of the notice will discuss which reporting requirements established under other authorities EPA is proposing to use instead of establishing new reporting obligations. EPA is soliciting comment on whether any or all of these reporting requirements should be established specifically under AIM Act authority in the regulations created through this rulemaking.

Some of the data elements EPA is proposing to collect are similar to or the same as those required to be reported under the existing requirements associated with the GHGRP (40 CFR part 98, subparts L and OO). While the regulatory reporting requirements are separate, and EPA is not proposing any changes to 40 CFR part 98 in this rulemaking, EPA intends to coordinate reporting for similar or identical data elements by using the same online portal for submitting both AIM and GHGRP data (e-GGRT) and intends to reduce duplicative reporting by populating the annual report submitted under GHGRP with data submitted under the AIM Act. In the future, EPA would also consider harmonizing terms used under both programs or providing a document clarifying how the data collected under the AIM Act aligns with data collected under the GHGRP.

D. How does EPA propose to release HFC data collected under the AIM Act?

In order to effectively implement an enforceable allowance allocation and trading program, proactively encourage compliance, and enable third-party engagement to complement EPA enforcement efforts, EPA is proposing several ways it intends to release data collected under this proposed rule. Some data would be released to the Ozone Secretariat at the United Nations Environment Programme and some data would be released to the general public. The Agency has noted below the intended audience for proposed data release. As a starting point, EPA notes that if a data point is collected under the GHGRP and is already released or determined under the GHGRP as not entitled to confidential treatment, and that same data point is required to be reported under these AIM Act regulations, it would not be given confidential treatment and would be considered releasable under these AIM Act regulations.[81] Additionally, emission data, including data used as inputs to emissions equations, would generally be releasable under subsection (k)(1)(C), because of the AIM Act's statement in that subsection that CAA section 114 applies to the AIM Act and any regulations promulgated under it as if the AIM Act were part of Title VI of the CAA. In particular, under subsection (k)(1)(C), CAA section 114(c), which provides that emission data shall be available to the public, applies to the AIM Act and any regulations promulgated under it.

To further support compliance efforts, in particular regarding illegal imports, EPA is proposing to release more data than it has historically released, some of which is currently determined to be CBI under the GHGRP.[82] With respect to other data EPA is proposing to release, these data fall into several categories, including: Aggregated data that would not divulge information submitters customarily keep private or closely held; data to support the tracking and legal sale of HFCs sold in commerce; and data on allowance levels to support compliance and facilitate transfers of allowances.

1. Which general data elements does EPA propose to publicly release?

Building on EPA's experience implementing the ODS phaseout under CAA Title VI, EPA is proposing to maximize transparency of the allocation program under the AIM Act. Market transparency would facilitate implementation of the allocation program and increase the public and current market participants' ability to provide complementary compliance assurances and pressure. It would allow the public and the industry to identify market participants and volumes in trade and thus enable them to alert EPA and other federal authorities when they suspect HFCs may have been produced, imported, or sold in violation of the regulations or of the AIM Act's prohibition in subsection (e)(2).

(a) Company-Level Production and Consumption Data

As noted earlier, Congress has required that the Administrator ''ensure that the annual quantity of all regulated substances produced or consumed in the United States does not exceed'' the annual caps described in subsection (e)(2)(B). To do that, EPA will need to employ many different compliance tools. Research shows that making data

[81] Nothing in this rulemaking is intended to change the regulations EPA has established determining how EPA will maintain data submitted in response to the GHGRP requirements. However, if EPA determines it can release the same data that is currently treated as CBI under the GHGRP, EPA would expect it could release such data under the GHGRP as well after making a change to the determination under the GHGRP consistent with 40 CFR 2.301(d)(4).

[82] See ''Greenhouse Gas Reporting Program: Data Reported by Facilities Subject to the Supplier Subparts LL, through QQ, Geologic Sequestration Subject to Subpart RR*, and CO_2 Injection Subject to Subpart UU,'' available at *https://www.epa.gov/sites/production/files/2020-09/documents/ghgrp_cbi_tables_for_suppliers_8-28-20_clean_v3_508c.pdf.*

publicly available facilitates compliance. Qualitative studies have found that ''public disclosure is [an] underutilized tool; there is powerful evidence that publishing information about company performance drives better behavior, as pressure is applied by customers, neighbors, investors, and insurers.'' [83] EPA has also acknowledged the importance of data transparency in prior rulemakings. As the Agency explained in the preamble to a proposed rule (78 FR 46006, July 30, 2013) concerning the National Pollutant Discharge Elimination System (NPDES):

> To promote transparency and accountability, EPA intends to make [a] more complete set of data available to the public, providing communities and citizens with easily accessible information on facility and government performance. Such data provides a powerful incentive to improve performance by giving government, permittees, and the public ready access to compliance information. This can serve to elevate the importance of compliance information and environmental performance within regulated entities, providing opportunity for them to quickly address any noncompliance.

The same principles apply in this situation to incentivize compliance and allow the public and competing companies to identify and report noncompliance to EPA. To promote transparency and accountability, the Agency is taking comment on whether to release all HFC data, unaggregated and in a format similar to how it would be reported to EPA.[84] This approach would allow for independent review of these data, in addition to the auditing and reporting requirements included in this proposal. EPA understands that many of the HFC supply data elements that would be released under this approach have previously been determined to be CBI (see, *https://www.epa.gov/sites/production/files/2020-09/documents/ghgrp_cbi_tables_for_suppliers_8-28-20_clean_v3_508c.pdf*),[85] but still sees the value of releasing such data.

Releasing all HFC activity (*e.g.,* transfers, production data, transformation use) at the company and transaction level (*e.g.,* chemical-specific production amounts) would be a significant divergence from past treatment of data under the GHGRP. Given the U.S. HFC market will have extensive regulation under the rulemakings implementing the AIM Act, it would be reasonable for EPA to take a different approach than has been taken for the GHGRP and release more disaggregated data than was released under those programs. Ensuring compliance with a regulatory phasedown program, where EPA is obligated to ensure that domestic production and consumption aligns with a statutorily defined schedule, is different than a reporting program where one company's noncompliance would mean less accurate accounting, but it does not have a statutorily defined target. It is reasonable for EPA to take all necessary steps to ensure that the Agency can ensure compliance with the consumption and production caps of subsection (e)(2)(B) as well as creating a level playing field.

If we were to finalize this approach, companies would know that production and consumption information are not protected and therefore companies would not have a reasonable expectation that the information would be handled privately. Under recent Supreme Court case law, Exemption 4 of the Freedom of Information Act would not apply to information submitted with the expectation that the information would be made public. See *Food Mktg. Inst.* v. *Argus Leader Media,* 139 S. Ct. 2356, 2360 (2019). Companies have a choice if they want to continue participating in the U.S. HFC market. EPA could also choose to release some elements such as transfer data since allowance holders and their allowance levels will be publicly available at the start of the year.

As an alternative to the above proposal to release every data element reported to the Agency under the regulatory reporting structure being established through this rulemaking, EPA proposes to release any and all data elements that are publicly available through a range of datasets. Data that are already publicly available cannot be considered privately held or merit confidential treatment. EPA has not been able to identify a publicly available dataset on HFC production that is complete, although EPA's Chemical Data Registry does provide some HFC production and import data (*https://chemview.epa.gov*). EPA proposes to release any information that is already publicly available through EPA's Chemical Data Registry. EPA would not release production data collected through the reporting regulations established through this rulemaking, beyond what is available in the Chemical Data Registry, unless commenters identify a source where complete production data is available publicly.

EPA is proposing to release all import data (*e.g.,* transaction level shipment data) because EPA does not expect that release of these data would divulge information that is not already available through privately developed global trade databases.[86] These databases charge a fee for access to information on imports at the transaction level based on Customs data from the United States and other countries, including bills of lading. There are also websites that provide selected import data at no cost.[87] A submission available in the docket from First Continental International (NJ) Inc., dated March 12, 2021, shows the types of information that can be ascertained from these databases. One of the key tests under the FOIA exemption in 40 CFR part 2 regarding CBI is whether the data is available publicly elsewhere.

Given import data is already publicly available, albeit behind a paywall, EPA is seeking comment on whether releasing import data collected under the AIM Act would divulge any additional information that could be claimed as CBI. Release of such data would also align with EPA's particular concern over imports of HFCs, where there is widespread global evidence of illegal activity, as outlined at the

[83] David Hindin and Jon Silberman, ''Designing More Effective Rules and Permits,'' *George Washington Journal of Energy & Environmental Law,* Spring 2016 at 103, 117–120.

[84] If EPA finalizes an approach to release a data element collected through reporting required under the AIM Act, any of those same data elements collected under GHGRP would be made public and therefore would not be entitled to CBI protection regardless of any previous determinations made under GHGRP. EPA anticipates that it would subsequently make a corresponding change to the GHGRP CBI determinations in accordance with 40 CFR 2.301(d)(4).

[85] Many of the data elements reported to subpart OO of the GHGRP were determined to be, and are treated as, confidential by EPA (see *e.g.,* 76 FR 30782, May 26, 2011; 76 FR 73886, November 29, 2011; 77 FR 48072, August 13, 2012, 78 FR 71904, November 29, 2013; and, 81 FR 89188, December 9, 2016).

[86] Examples include PIERS (*https://ihsmarkit.com/products/piers.html*), Panjiva (*https://panjiva.com*), Datamyne (*https://www.datamyne.com*), and ImportGenius (*https://www.importgenius.com*). Mention of or referral to commercial products or services, and/or links to non-EPA sites does not imply official EPA endorsement of or responsibility for the opinions, ideas, data, or products presented at those locations, or guarantee the validity of the information provided. Mention of commercial products/services on non-EPA websites is provided solely as a pointer to information on topics related to environmental protection that may be useful to the public as they review this proposed rulemaking.

[87] Enigma, a data science firm, makes available online what appears to be the full Automated Manifest System import data from 2018–2020, including the names of shipment consignees and cargo descriptions (*https://aws.amazon.com/marketplace/pp/US-Imports-Automated-Manifest-System-AMS-Shipments/prodview-stk4wn3mbhx24*). Similarly, usimports.info makes a limited number of import database queries free to users, allowing them to see data on individual bills of lading (*https://usimports.info*).

beginning of section VIII of the preamble.

(b) Aggregated National Data

As a separate alternative to the above-outlined approach, if EPA does not finalize to release all data elements to the public, EPA proposes to release all data that is already publicly available and otherwise to release certain aggregated HFC production and consumption data to the public. This approach would be similar to how EPA releases aggregated data collected pursuant to CAA Title VI authorities to implement the ODS phaseout. For example, as part of the ODS phaseout, EPA has released annual halon 1301 import, export, and petition data;[88] aggregate inventory of pre-phaseout methyl bromide; aggregate annual HCFC consumption; and chemical-specific aggregated consumption for HCFC–22, HCFC–123, and HCFC–124, sometimes as an average over several years.[89]

Releasing similar aggregated HFC data would allow EPA to document whether HFC consumption and production are at or below the levels prescribed in subsection (e)(2)(C), providing transparency to the public that EPA is meeting its statutory obligation. If aggregated data shows that actual values exceed those allowed under the phasedown schedule, it would highlight noncompliance with the requirements, and could encourage additional outside efforts to identify the cause of the exceedance, and to take further actions to ensure the caps are met. It would also provide insight into the ongoing transition out of specific HFCs, which might help inform future allocations of allowances and business planning for entities seeking allowances.

For HFCs, EPA has already released certain aggregated data on the GHGRP website[90] and through the recent NODA.[91] These data include production minus destruction minus transformation; exports; imports; and net supply (CO_2e quantities produced + imported − exported − transformed − destroyed) for the 18 AIM Act-listed HFCs between 2011 and 2019, as well as chemical-specific import data for HFC–134a, HFC–125, and HFC–32 for the same time period. The NODA also included a list of companies that produced (including those that destroyed), imported, and exported AIM Act-listed HFCs in 2011—2013. Other data elements that are released under the GHGRP are noted at *https://www.epa.gov/sites/production/files/2020-09/documents/ghgrp_cbi_tables_for_suppliers_8-28-20_clean_v3_508c.pdf.* EPA expects that release of the information in this subsection would not run any risk of divulging information submitters customarily keep private or closely held.

EPA is proposing to release to the general public, without prior communication with the affected companies, chemical-specific information for HFCs where there are three or more reporting entities. This is the Agency's standard practice to mask information submitters customarily keep private or closely held. In such circumstances, a single reporter would know their own value but would not know how to apportion the remainder of the aggregated total among the other entities reporting. The proposed approach would be similar in that competitors would not be able to determine the relative share of each HFC with just the aggregated total. EPA proposes to release the EV-weighted quantity as a way of masking company-specific data, as well as a list of the relevant HFCs.

Under this separate alternate framework, EPA is proposing to release the following data annually in aggregated form in addition to any company or chemical specific information that is already publicly available:

- Total aggregated annual HFC production, EV-weighted;
- Total production by mass for each HFC;
- Total aggregated annual HFC consumption, EV-weighted;
- Total consumption by mass for each HFC;
- Total aggregated annual HFC imported, EV-weighted;
- Total imports by mass for each HFC;
- Total aggregated annual HFC exported, EV-weighted;
- Total exports by mass for each HFC;
- Total aggregated annual destruction (in kilograms) for each HFC;
- Annual aggregate amount of each HFC produced and imported (summed) for use as a feedstock by chemical; and
- Annual aggregate amount of each HFC produced and imported (summed) for use as a process agent, and aggregate annual emissions from such use by HFC.

EPA would only release chemical-specific data without further consultation with the affected companies if it comprised data from three or more entities, if it was already publicly available, or if it was not claimed as CBI.

The release of feedstock data could be useful to validate atmospheric measurements of HFCs, identify precursors and byproducts, and help inform decision making. Aggregated global data on production of ODS for feedstock use has been used for this purpose. EPA anticipates that publicly releasing feedstock data for HFCs could lead to similar benefits, while also providing additional transparency to the public on the ongoing use of HFCs that are being phased down under the AIM Act, but not phased out.

EPA is not aware of current process agent use of HFCs and, as noted elsewhere, is seeking comment on which HFCs are used as a process agent, how the HFC is used as a process agent, which facilities use HFCs as a process agent, and the annual quantity of HFCs used as a process agent. If there were to be use of HFCs as process agents in sufficient quantities and frequencies to allow aggregation, EPA is proposing to release aggregated HFC process agent data.

EPA is also proposing under this separate alternative approach to release aggregated annual consumption data associated with the use of application-specific allowances. Specifically, EPA would release total annual chemical-specific HFC consumption for each application, similar to how the Agency provided chemical-specific data in the market characterizations. Providing these data to the general public would allow EPA to show the scale of application-specific allowance use, identify where EPA's annual determination on the quantity of HFCs needed for the end use may need adjustment, and inform discussion in future rulemakings. This information would be aggregated across all application-specific allowance holders within a specific application, so EPA expects there would be no risk of divulging information submitters customarily keep private or closely held.

Under this separate alternative approach, EPA is proposing to release

[88] EPA has historically shared the amount of halon 1301 imported and exported in a year, as well as the total quantity of material approved for import under the petition process described in 40 CFR 82.13(g)(2). This information is shared via email with the interested stakeholder associations or posted to the EPA website (see *https://www.epa.gov/ozone-layer-protection/halons-program* (accessed February 14, 2021)).

[89] Aggregate HCFC data can be found in the United Nations Environment Programme's July 13, 2009, ''Workshop on management and destruction of ozone-depleting substance banks and implications for climate change,'' document, which can be found in the docket for this rulemaking.

[90] ''Fluorinated Greenhouse Gas Emissions and Supplies Reported to the GHGRP.'' *Epa.gov,* Environmental Protection Agency, Feb. 24, 2021, *www.epa.gov/ghgreporting/fluorinated-greenhouse-gas-emissions-and-supplies-reported-ghgrp#aim.*

[91] See 86 FR 9059; February 11, 2021, *https://www.federalregister.gov/d/2021-02774/p-1.*

aggregated data on the quantity (in kilograms) of each HFC held in inventory as of December 31 of each year collectively by producers, importers, exporters, and reclaimers of HFCs. Analogous to the approach under CAA section 608, where almost all HFC reclamation data is released on a chemical-by-chemical basis, EPA is proposing to release HFC inventory by chemical. EPA would only release HFC-specific inventory values if there are three or more companies that have inventory of that HFC. Releasing inventory data can inform decisions of all companies in the marketplace. One motivator for this proposal is the experience with the phaseout of HCFC–22. Lack of reliable and widely distributed information on the scale of the existing inventory of HCFC–22 likely contributed to dramatic price swings associated with delays in the issuance of EPA allocation rulemakings. While additional information on inventory on its own may not prevent price fluctuations, the Agency expects it could provide more price predictability for the step-downs. Releasing inventory data could also help producers and importers make decisions about which HFCs are in short supply and/or could help support a smooth transition away from high-GWP HFCs.

(c) Company-Specific Allowance Data

Separate and apart from the alternatives listed in the prior subsections, EPA is also proposing to publish on its website the names of every company receiving calendar-year production allowances, consumption allowances, or application-specific allowances. EPA would also publish the amount of allowances allocated at the beginning of the year to each company and revise that data quarterly as allowances are expended.

Under the ODS phaseout program, EPA released similar company-specific allowance data, including quantities produced or imported by each company in the baseline year by chemical and annual allocation amounts thereafter for nearly 30 years. EPA's experience has been that the release of this information has been important to reduce illegal imports, facilitate transfers, and provide third parties confidence that they were buying from a company that had allowances. EPA anticipates the same benefits would result from providing similar HFC data.

In the case of HFCs, EPA is proposing to release an EV-weighted allowance value which would not divulge what HFC(s) a company is producing or consuming. Given this history and the fact that the data will be masked by being EV-weighted, EPA does not believe that producers or importers have a reasonable expectation of confidentiality concerning their allowance allocation levels.

(d) Transfer Data

If EPA does not release all data, as described in section IX.D.1 of this preamble, EPA is also proposing to publish on the Agency's website certain aggregated data on transfers, so long as there are at least three companies involved in transferring allowances that year. Specifically, EPA is proposing to release data on the number of transfers, the total EV-weighted quantity of allowances transferred, and the average price of an allowance being transferred.

Release of these data would provide the public with information on the frequency and scale of transfers associated with the HFC phasedown.

While EPA sees value in releasing individual transfer data (excluding the price of the allowances transferred), the Agency expects that this would divulge information submitters customarily keep private or closely held. EPA seeks comment on this proposal, including whether submitters consider such data to be customarily kept private or closely held and whether EPA should release more data than just aggregate data.

(e) Information Relevant to the Kigali Amendment and the Montreal Protocol

On January 27th, 2021, the President issued an Executive Order on Tackling the Climate Crisis at Home and Abroad (Executive Order 14008; 86 FR 7619; January 27, 2021). Under part (j), the Executive Order directs the Secretary of State to prepare within 60 days a transmittal package seeking the Senate's advice and consent to ratification of the Kigali Amendment to the *Montreal Protocol on Substances that Deplete the Ozone Layer*. The Kigali Amendment requires an international phasedown of the production and consumption of HFCs. To ensure the United States would be prepared to comply with the data reporting elements of the Kigali Amendment, EPA is proposing that, if the United States were to join the Kigali Amendment, it would release data to the United Nations Environment Programme's Ozone Secretariat regarding HFC production, consumption, and limited emission data. With the exception of emission data related to the destruction of HFC–23, the data elements would be similar, if not identical, to those currently released for ODS. Should the United States join the Kigali Amendment, EPA will need to report [92] the following data:

- Annual U.S. HFC production in MT by chemical for each of the HFCs listed in subsection (c) of the AIM Act, including total HFC production for all uses and HFC production for feedstock in the United States;
- Annual U.S. HFC import in MT aggregated by chemical and by country imported from for each of the HFCs listed in subsection (c) of the AIM Act, including the amount that was new (virgin), recovered and reclaimed, or for feedstock use;
- Annual U.S. HFC export in MT aggregated by chemical and by country exported to for each of the HFCs listed in subsection (c) of the AIM Act, including the amount that was new (virgin), recovered and reclaimed, or for feedstock use;
- Annual U.S. HFC destruction in MT aggregated by chemical for each of the HFCs listed in subsection (c) of the AIM Act; and
- Annual facility-level information on HFC–23 generated and destroyed, including annual amounts of HFC–23:
  - Generated, whether captured or not;
  - generated and captured for all uses;
  - generated and captured for feedstock use in the United States;
  - generated and captured for destruction;
  - used for feedstock without prior capture;
  - destroyed without prior capture; and
  - generated emissions.

Regarding annual facility-level information on HFC–23 generated and destroyed, these data are inputs into emission equations that are used under GHGRP subparts L and O to calculate and report emissions of HFC–23, and inputs into emission equations may be considered ''emission data.'' Section 114(c) of the CAA provides that ''emission data'' shall be available to the public. As noted above, because subsection (k)(1)(C) of the AIM Act states that section 114 of the CAA applies to the AIM Act and rules promulgated under it as if the AIM Act were included in Title VI of the CAA, the requirements under section 114(c) of the CAA that apply to ''emission data'' also apply to data gathered under the AIM Act that are determined to be ''emission data.'' EPA is proposing to determine that these elements related to HFC–23 are emission data and thus

[92] The reporting forms and instructions that EPA would use to submit such data are available in the docket and on the Ozone Secretariat's website at *https://ozone.unep.org/countries/data-reporting-tools* (accessed February 14, 2021).

would not be treated as confidential under this rule.

The Ozone Secretariat would release aggregated GWP-weighted annual production and consumption on the Ozone Secretariat's website.[93] Additional data elements released include annual amounts destroyed, aggregated for all reported chemicals under the Montreal Protocol in MT, import of recovered/recycled/reclaimed substances by group (*e.g.,* HFCs) in MT, and export of recovered/recycled/reclaimed substances in MT by group. Should the United States join the Kigali Amendment, EPA would also need to submit chemical-specific production and consumption data consistent with the data listed for 2011, 2012, and 2013 to establish the United States' baseline for HFCs.

The Parties to the Montreal Protocol adopted Decision I/11[94] during the First Meeting of the Parties, which outlines the Parties' view on how to treat the confidentiality of data submitted to the Ozone Secretariat. In accordance with the decision, if the United States is submitting data that it has determined to be entitled to confidential treatment, the United States has the ability to mark the data accordingly such that it will be treated with secrecy and maintained confidential by the Secretariat. EPA intends to mark any data that the Agency is not releasing to the general public for confidential treatment in its annual reporting, were the United States to join the Kigali Amendment. The decision requests the Ozone Secretariat to only release aggregated data such that any data a Party to the Protocol considers to be confidential will not be disclosed. However, Parties to the Protocol may exercise their right under Article 12, paragraph b of the Protocol to have access to confidential data from other parties, provided that they send an application in writing that guarantees such data will be treated with secrecy and not disclosed or published in any way.

X. What are the costs and benefits of this proposed action?

EPA conducted a Regulatory Impact Analysis which estimated the costs and benefits of implementing the phasedown of HFCs as a result of the passage of the AIM Act, as realized by promulgating this rule. This analysis is intended to provide the public with information on the relevant costs and benefits of this action and to comply with Executive Orders.

EPA estimates that in 2022 the annual net benefits are $2.6 billion, reflecting compliance costs of $200 million and social benefits of $2.8 billion. In 2036, when the final phasedown step is reached at 15 percent of the statutorily defined HFC baseline, the estimated annual net benefits are $17.9 billion. Table 5 presents a summary of the annual costs and net benefits of the rule for selected years in the time period 2022–2050, but with the climate benefits discounted at 3%.

TABLE 5—BENEFITS, COSTS, AND NET BENEFITS OF THE PROPOSED RULE FOR 2022–2050

[Billions of 2020$] [a] [b]

Year	Climate benefits (discounted at 3%)	Costs (annual)	Net benefits
2022	$2.8	$0.2	$2.6
2024	6.3	−0.2	6.5
2029	10.2	−0.6	10.8
2034	13.5	−0.9	14.4
2036	17.1	−0.8	17.9
2045	25.5	−0.9	26.4
2050	30.2	−1.1	31.3

[a] Benefits include only those related to climate. Climate benefits are based on changes (reductions) in HFC emissions and are calculated using four different estimates of the social cost of HFCs (SC–HFCs) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; and 95th percentile at 3 percent discount rate). For the presentational purposes of this table, we show the benefits associated with the average SC–HFC at a 3 percent discount rate, but the Agency does not have a single central SC–HFC point estimate. We emphasize the importance and value of considering the benefits calculated using all four SC–HFC estimates. See Table 4–20 in the RIA for the full range of SC–HFC estimates. As discussed in Chapter 4 of the RIA, a consideration of climate benefits calculated using discount rates below 3 percent, including 2 percent and lower, are also warranted when discounting intergenerational impacts. The costs presented in this table are annual estimates.

[b] Rows may not appear to add correctly due to rounding.

Table 6 presents the sum of climate benefits across all HFCs reduced for the proposed rule for 2022, 2024, 2029, 2034, 2036, 2045, and 2050.

TABLE 6—CLIMATE BENEFITS FOR THE PROPOSED RULE FOR 2022–2050

[Billions of 2020$] [a]

Year	Climate benefits by discount rate and statistic			
	5% (average)	3% (average)	2.5% (average)	3% (95th percentile)
2022	$1.2	$2.8	$3.8	$7.4
2024	2.7	6.3	8.5	16.7
2029	4.4	10.2	13.5	27.1
2034	6.0	13.5	17.6	35.9
2036	7.7	17.1	22.3	45.7
2045	12.2	25.5	32.6	68.3

[93] The Ozone Secretariat's handling of similarly reported data from the United States on ODS is available at *https://ozone.unep.org/countries/profile/usa.*

[94] ''The Montreal Protocol on Substances That Deplete the Ozone Layer.'' Unep.org, United Nations Environment Programme, *https://ozone.unep.org/treaties/montreal-protocol/meetings/first-meeting-parties/decisions/decision-i11-report-and-confidentiality-data.*

TABLE 6—CLIMATE BENEFITS FOR THE PROPOSED RULE FOR 2022–2050—Continued

[Billions of 2020$] [a]

Year	Climate benefits by discount rate and statistic			
	5% (average)	3% (average)	2.5% (average)	3% (95th percentile)
2050	14.9	30.2	38.4	80.9

[a] Climate benefits are based on changes (reductions) in HFC emissions and are calculated using four different estimates of the social cost of HFCs (SC–HFCs) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; and 95th percentile at 3 percent discount rate). The IWG emphasized the importance and value of considering the benefits calculated using all four estimates. As discussed in the Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990 (IWG 2021), a consideration of climate benefits calculated using discount rates below 3 percent, including 2 percent and lower, are also warranted when discounting intergenerational impacts.

EPA estimates that the present value of cumulative net benefits evaluated from 2022 through 2050 is $283.9 billion at a three percent discount rate, comprising $272.8 billion in cumulative benefits due to reducing HFC emissions and $11.1 billion in cumulative compliance savings. The present value of net benefits is calculated over the 29-year period from 2022–2050, to account for the years that emissions will be reduced following the consumption reductions from 2022–2036. Over the 15-year period of the phasedown of HFCs, the present value of cumulative compliance costs is negative $5 billion, or $5 billion in savings, and the present value of cumulative social benefits is $103.6 billion, both at a three percent discount rate. Over the same 15-year period of the phasedown, the present value of cumulative net benefits is $108.2 billion. At a 7% discount rate over the 15-year period of the phasedown of HFCs, the present value of cumulative compliance costs is negative $3billion, or $3 billion in savings. Over the same 15-year period of the phasedown, the present value of cumulative net benefits is $106.6 billion at a 7% discount rate for costs (and 3% for climate benefits). The comparison of benefits and costs in PV and EAV terms for the rule can be found in Table 7. Estimates in the table are presented as rounded values.

TABLE 7—SUMMARY OF ANNUAL VALUES, PRESENT VALUES AND EQUIVALENT ANNUALIZED VALUES FOR THE 2022–2050 TIMEFRAME FOR ESTIMATED ABATEMENT COSTS, BENEFITS, AND NET BENEFITS FOR THE PROPOSED RULE

[Billions of 2020$, discounted to 2022] [a b c]

Year	Climate benefits (3%) [c]	Costs [d]		Net benefits	
		3%	7%	3%	7%
Present Value	$272.8	−$11.1	−$5.8	$283.9	$278.6
Equivalent Annualized Value	14.2	−0.6	−0.5	14.8	14.7

[a] Rows may not appear to add correctly due to rounding.
[b] The annualized present value of costs and benefits are calculated over a 29-year period from 2022 to 2050.
[c] Climate benefits are based on changes (reductions) in HFC emissions and are calculated using four different estimates of the social cost of HFCs (SC–HFC) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; and 95th percentile at 3 percent discount rate). For purposes of this table, we show the benefits (climate benefits and net benefits) associated with the model average at a 3 percent discount rate, but the Agency does not have a single central SC–HFC point estimate. We emphasize the importance and value of considering the benefits calculated using all four SC–HFC estimates. As discussed in Chapter 4 of the RIA, a consideration of climate benefits calculated using discount rates below 3 percent, including 2 percent and lower, are also warranted when discounting intergenerational impacts.
[d] The costs presented in this table are consistent with the costs presented in RIA Chapter 3, Table 3–5.

The estimation of $272.8 billion in benefits due to reducing HFC emissions involved three steps. First, the difference between the consumption of HFCs allowed under the rule and the consumption that would have been expected in a business-as-usual scenario (BAU) was calculated for each year of the phasedown in exchange value-weighted tons (EVe). Second, using EPA's Vintaging Model, the changes in consumption were used to estimate changes in HFC emissions, which generally lag consumption by some time as HFCs incorporated into equipment and products are eventually released to the environment. Finally, the climate benefits were calculated by multiplying the HFC emission reductions for each year by the appropriate social cost of HFC to arrive at the monetary value of HFC emission reductions.

EPA estimates the climate benefits for this proposed rulemaking using a measure of the social cost of each HFC (collectively referred to as SC–HFC) that is affected by the rule. The SC–HFC is the monetary value of the net harm to society associated with a marginal increase in HFC emissions in a given year, or the benefit of avoiding that increase. In principle, SC–HFC includes the value of all climate change impacts, including (but not limited to) changes in net agricultural productivity, human health effects, property damage from increased flood risk and natural disasters, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services. The SC–HFC, therefore, reflects the societal value of reducing emissions of the gas in question by one metric ton. The SC–HFC is the theoretically appropriate value to use in conducting benefit-cost analyses of policies that affect HFC emissions. The Interagency Working Group on the Social Cost of Greenhouse Gases (IWG) will be taking comment on how to incorporate the recommendations of the National Academies (2017) and other recent science including the advances discussed in the 2021 TSD in the development of the fully updated SC–GHG estimates to be released by January 2022 under E.O. 13990. To complement the IWG process, and as an active member of the IWG, EPA is soliciting comment in this proposed rule on the SC–HFC estimates used in this RIA and the methodology underlying them,

including on how that methodology should be adapted in future to accommodate advances in the scientific and economic literature. Additional benefits are derived by requiring a five-percent offset for allowance transfers, which decreases the cap of the total allowable HFCs in the system. EPA is also taking comment on the RIA, which is included in the docket. The public is invited to provide comment and/or data that would inform various analytic matters and uncertainties in the RIA (see Executive Summary and Chapter 7 of the RIA).

XI. What should EPA consider in future rulemakings?

In addition to the proposals included in this rulemaking, EPA is also providing advance notice and seeking input on how the Agency should determine company-specific allocations in 2024 and later years. Given high baseline health risks related to air toxics in communities near facilities that produce HFCs and potential environmental justice concerns, EPA is also seeking input on ways to ensure that these elevated risks not be further exacerbated by changes in the use patterns for production of HFCs or their substitutes. Since these topics relate to future rulemaking, rather than proposals in this rulemaking, EPA will take comments on this section under advisement and incorporate them, as appropriate, into such future rulemakings, with an opportunity for public comment prior to finalization of any provisions.

A. How should EPA consider future allowance allocations?

The AIM Act requires a phasedown of HFC production and consumption to 15 percent of baseline by 2036 with no further lowering of the cap. This is in contrast to the approach for ODS, where production and consumption of chemicals were phased out, with limited exceptions. As such, EPA is considering whether a different approach is warranted for determining allowance allocations under the AIM Act and is seeking advance input on several options for the allowance framework and procedure for 2024 and later years.

For ODS, EPA generally issued allowances to a set of companies based on their historic levels of production and consumption. Given the intent was to phase out the production and consumption of ODS, EPA did not adjust the list of allowance holders once they were set, except to reflect transfers of baseline allowances between companies. EPA is considering whether allocating HFC allowances largely to historic producers or importers is appropriate in the long-term for a phasedown.

EPA is particularly interested in whether the concepts presented in this section would benefit the environment (*e.g.,* by encouraging transition to low-GWP and non-HFC substances); provide an incentive or disincentive to companies that develop and introduce low-GWP and non-HFC substances; support the effective functioning of the HFC production and import market; and/or create or remove barriers to new entrants to the market, including for socially and economically disadvantaged individuals. EPA seeks advance input on the following concepts, as well as suggestions for additional approaches the Agency could consider for 2024 [95] and later years.

(1) Allocating allowances based on past production and consumption from a set period of years and only adjusting allowance holders to reflect transfers between companies;

(2) Allocating allowances based on a reevaluation of the most recent years of production and consumption data as reported to EPA (*e.g.,* three years);

(3) Allocating allowances based on past production and consumption, but requiring a fee for every allowance provided for production or import of HFCs;

(4) Establishing an auction system for the total set, or some subset, of generally available allowances;

(5) A combination of the above approaches, such as phasing in the use of an auction or fee over time.

Under the first concept, EPA would continue to issue allowances at no cost. While there would be no cost associated with the allowances, the allowances have value. Companies that receive allowances could choose to remain in the market and produce or import HFCs, sell or otherwise transfer their allowances to another company, or retire their allowances. New entrants, other than those potentially established through this rulemaking, would typically have to buy into the market through the purchase of allowances. This approach may provide the least flexibility for new entrants, and is most consistent with past practice phasing out ODS. It would also provide ongoing value to companies already in the market through the issuance of allowances regardless of whether they continue to produce or import HFCs, effectively at the expense of other allowance holders who are actively producing or importing.

The second concept would be similar in many respects to the first, but would adjust each company's share of allowances periodically—either at phasedown steps or every few years. It would reflect transfers periodically when EPA adjusted the years of production and consumption considered in allocating allowances, and would require new entrants, after this initial allocation rule, to purchase or otherwise obtain allowances from another allowance holder to enter the market (although such new entrants may be included in future allocations after the years considered shifted). This approach may better ensure the companies receiving allowances are the companies who are actively producing and importing. EPA can see advantages to this approach, particularly for companies that continue to produce HFCs in the United States, since allowances associated with companies that stop domestic production would periodically be reapportioned to companies that continue to produce domestically. However, this approach would encourage companies to use all of their allowances or lose them at the next periodic adjustment, potentially resulting in production and consumption at a higher level than the market would demand. This could also have environmental consequences if more HFCs are produced and imported than are needed to satisfy market demand.

The third concept would adopt an approach similar to the first two, but would require companies pay a fee for allowances provided for production or import of HFCs. This could address concerns about producing or importing more HFCs than a company expects to need, potentially resulting in benefits for the environment, but could increase the cost of the allowance allocation and trading program. Additionally, depending on how the fee was structured, this concept could favor companies with more access to capital to purchase the allowances. Given the expected increase in the market price of HFCs that is likely to occur over time as allowances decrease, EPA would not expect this to affect companies' profitability, but it could increase the cost of HFCs. An increase in the cost of HFCs could foster faster transition to alternatives, which would result in additional environmental benefits. By increasing the cost of virgin material, it could also increase the profitability and use of reclaimed material. As noted previously, reclamation will be an important component to a smooth

[95] 2024 is the next milestone under the AIM Act phasedown schedule, when aggregate allowances must be reduced to 60 percent of the baseline.

transition from HFCs, as it has been in past ODS phaseouts. It could also foster a more active allowance transfer market to the extent companies determine they have excess allowances that would earn more profit if transferred to companies that are seeking additional allowances based on their customers' demands.

Under the fourth concept, EPA would determine the total allocation level and establish an auction system for individual allowances. This approach would provide flexibility in the marketplace such that producers and importers could adjust their allowances from year-to-year. This approach may allow the broadest participation in the HFC production and import market. It could have similar benefits for the environment by adding an extra cost to using an allowance and discouraging entities from seeking allowances where there isn't corresponding market demand. Increases in the price of virgin HFCs could encourage transition to alternatives and support the use of reclaimed material. Under an auction, EPA could consider developing a mechanism that would permit entities to purchase allowances for the purpose of retiring them which could result in additional environmental benefits. The Agency seeks advance input on how best to structure such an auction program, so as not to discourage participation by small businesses and businesses that are socially and economically disadvantaged. Smaller business may not have as much access to capital and could potentially be shut out of the HFC production and import market if the auction price was too high. This approach may also have administrative challenges, but EPA could rely on its experience implementing other environmental auction programs to set up and administer such a program.

The fifth concept would be a combination of any of the other concepts, including allowing for future new entrants pools similar to the one described in the proposal. In particular, EPA is interested in whether it would be appropriate to phase in the third or fourth concepts over time. For example, allowances in the early years of the phasedown could be primarily allocated to companies that are currently producing and importing (under the first two concepts), but each year EPA could increase the share of allowances that are subject to a fee or put up for auction. Under this approach, EPA could envision all allowances being subject to a fee or put up for auction by 2036 when the final phasedown step under the AIM Act is reached. This would gradually transition the market from receiving allowances based on historic production and import to one where any company could enter the market.

EPA is seeking advance input on these and other approaches for issuing allowances starting with 2024.

B. How should EPA address the potential health effects of air toxics associated with changes in the production of HFCS and substitutes in a future rulemaking?

Section III of the preamble describes EPA's initial approach in assessing potential environmental justice concerns and poses several questions designed to inform the Agency's analysis. The Agency's preliminary screening-level analysis is included in the RIA, available in the docket associated with this rulemaking. EPA is evaluating whether there may be inadvertent or unexpected distributional effects of the phasedown of HFCs that may cause potential environmental justice concerns. Specifically, chemical feedstocks and byproducts emitted as part of the production process at a facility expending allowances, or producing substitutes, may cause or contribute to disproportionately high exposure to certain air toxics in communities adjacent to, or surrounding, that facility. As noted above, there is uncertainty about how this rule would change production of HFCs and substitutes at individual facilities, and how any such changes might affect air toxics emissions and exposure in nearby communities.

To support the development of comments, EPA is seeking data or analysis to identify whether it is reasonable to expect net increases in emissions; and if so, how we might isolate the impacts of this program (*i.e.,* effects resulting from the phasedown itself, the trading of production allowances, or some other factor) to enable the Agency to conduct a more nuanced analysis of changes in releases associated with chemical feedstocks and byproducts for HFC substitutes, given the inherent uncertainty regarding where, and in what quantities, substitutes will be produced. EPA is also seeking comment on whether there are other regulatory tools better suited than adjustments to the HFC program design to address potential increases in emissions in non-HFC feedstocks and byproducts at facilities subject to the Congressionally mandated phasedown of HFCs under the AIM Act, if any. EPA also seeks comment on whether these are the appropriate questions or if there are other questions the Agency should be asking. EPA is also soliciting comment on key assumptions underlying the environmental justice analysis.

EPA is also seeking input on the following approaches for future rulemaking with respect to how the Agency treats allowance transfers to address any potential for increased air toxics exposure in at-risk communities, and the Agency is also seeking input on other approaches that we have not considered.

1. Adjustments to Transfer Offsets

EPA could consider adjusting the transfer offset, currently proposed at five-percent (and taking comment on one to 10 percent), based on factors such as the location of the receiving facility and projected impacts to the surrounding community.

2. Issuing Allowances at a Facility Level

EPA's current proposal is to issue allowances at a company level, but the Agency could consider issuing allowances at a facility level in future rulemakings to limit the potential for disproportionately high production of HFCs.

3. Release of Relevant Facility Data

As part of an allowance transfer request, EPA could require the company receiving allowances to submit relevant facility data, which would be made available to the public, that is sufficient to demonstrate that transfers of allowances would not increase risks in communities with high existing air toxic emissions or elevated health risks.

XII. Statutory and Executive Order Review

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. A summary of the potential costs and benefits associated with this action is included in the section titled, ''What is the Summary of this Action?'' of this proposed rulemaking, and EPA prepared an analysis of the potential costs and benefits associated with this action, which is available in Docket Number EPA–HQ–OAR–2021–0044.

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule will be submitted for approval to the Office of

Management and Budget (OMB) under the PRA upon publication of this proposed rule. The Information Collection Request (ICR) document that EPA prepared has been assigned EPA ICR number 2685.01. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

Subsection (d)(1)(A) of the AIM Act specifies that on a periodic basis, but not less than annually, each company that, within the applicable reporting period, produces, imports, exports, destroys, transforms, uses as a process agent, or reclaims a regulated substance shall submit to EPA a report that describes, as applicable, the quantity of the regulated substance that the company: Produced, imported, and exported; reclaimed; destroyed by a technology approved by the Administrator; used and entirely consumed (except for trace quantities) in the manufacture of another chemical; or, used as a process agent. EPA is proposing to collect such data regularly to support implementation of the AIM Act's HFC phasedown provisions. EPA is proposing quarterly reporting to ensure that annual production and consumption limits are not exceeded. It is also needed for EPA to be able to review allowance transfer requests, of which remaining allowances is a major component of EPA's review. In addition, EPA is proposing to collect information in order to calculate allowances, to track the movement of HFCs through commerce, and to require auditing. Collecting these data elements would allow for EPA to ensure that the annual quantity of all regulated substances produced or consumed in the United States does not exceed the cap established by the AIM Act, consistent with subsection (e)(2)(B) of the Act.

All information sent by the submitter electronically is transmitted securely to protect information submitters customarily keep private or closely held. The reporting tool guides the user through the process of submitting CBI. Documents containing information claimed as CBI must be submitted in an electronic format, in accordance with the recordkeeping requirements. EPA also allows respondents to report CBI by fax and through courier.

Respondents/affected entities: Respondents and affected entities will be individuals or companies that produce, import, export, transform, distribute, destroy, or reclaim certain HFCs that are defined as a regulated substance under the AIM Act. Respondents and affected entities will also be individuals and companies who produce, import, or export products in six statutorily specified applications: A propellant in metered dose inhalers; defense sprays; structural composite preformed polyurethane foam for marine and trailer use; the etching of semiconductor material or wafers and the cleaning of chemical vapor deposition chambers within the semiconductor manufacturing sector; mission-critical military end uses, such as armored vehicle and shipboard fire suppression systems and systems used in deployable and expeditionary applications; and, on board aerospace fire suppression.

Respondent's obligation to respond: Mandatory (AIM Act).

Estimated number of respondents: 11,664.

Frequency of response: Quarterly, biannual, annual, and as needed depending on the nature of the report.

Total estimated burden: 36,540 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $4,506,092 per year, includes $24,100 annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than June 18, 2021. EPA will respond to any ICR-related comments in the final rule.

EPA used data collected under the ICR for the Greenhouse Gas Reporting Program (OMB Control No. 2060–0629) as well as the associated reporting tool, the electronic Greenhouse Gas Reporting Tool (e-GGRT) in developing this proposed rulemaking. EPA has also requested an emergency ICR for a one-time collection request pertaining to data necessary to establish the United States consumption and production baselines as well as to determine potential producers, importers, and application-specific end users who were not subject to the GHGRP (OMB Control No. 2060–0732).

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are suppliers of HFCs including producers, importers, exporters, reclaimers, companies that destroy HFCs, and companies that sell and distribute HFCs. Details of this analysis are presented in ''Economic Impact Screening Analysis for Proposed Allowance System for an HFC Production and Consumption Phasedown.'' Docket ID EPA–HQ–OAR–2021–0044.

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (SISNOSE). Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the U.S. Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

If a rule may have a SISNOSE, the Agency would be required to take certain steps to ensure that the interests of small entities were represented in the rulemaking process. To determine whether this proposed rule would likely have a significant economic impact on a substantial number of small entities (SISNOSE), EPA identified producers, importers, exporters, and reclaimers of HFCs from 2018 and 2019 that reported to EPA's Greenhouse Gas Reporting Program and the U.S. Customs and Border Protection Automated Commercial Environment (ACE). Available economic data about each identified entity (*i.e.,* number of employees, annual sales) were obtained from the Dun and Bradstreet databases, and the sizes compared with the U.S. Small Business Administration's table of small business size standards matched to NAICS codes. The small business threshold is defined by SBA as the number of employees in the

company and varied between 100 and 1,500 employees. There were identified HFC importers and reclaimers that met the definition of small businesses, but no HFC producers were identified as small businesses. To determine the likely economic impact on these small businesses, it was assumed that a percentage of the HFCs they imported would be replaced by an alternative, and the difference in the price between the HFCs and their alternatives was applied to determine any change in sales revenue. The methods used and assumptions made to perform this analysis are described in detail in the technical support document, *Economic Impact Screening Analysis for Proposed Allowance System for an HFC Production and Consumption Phasedown,* found in the docket of this proposed rule.

EPA estimates that approximately 9 of the 8,746 potentially affected small businesses could incur costs in excess of one percent of annual sales and that approximately 4 small businesses could incur costs in excess of three percent of annual sales. Because these levels are below the thresholds used in EPA's other rulemakings affecting these industries (*e.g.,* CAA Title VI rulemakings), it can be presumed that this action will have no SISNOSE.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action. EPA periodically updates tribal officials on air regulations through the monthly meetings of the National Tribal Air Association and will share information on this rulemaking through this and other fora.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is an economically significant regulatory action as defined by Executive Order 12866, and EPA believes that the environmental health or safety risk addressed by this action has a disproportionate effect on children. Accordingly, EPA has evaluated the environmental health and welfare effects of climate change on children.

GHGs, including HFCs, contribute to climate change. The GHG emissions reductions resulting from implementation of this rule will further improve children's health. The assessment literature cited in EPA's 2009 and 2016 Endangerment Findings concluded that certain populations and life stages, including children, the elderly, and the poor, are most vulnerable to climate-related health effects. The assessment literature since 2016 strengthens these conclusions by providing more detailed findings regarding these groups' vulnerabilities and the projected impacts they may experience.

These assessments describe how children's unique physiological and developmental factors contribute to making them particularly vulnerable to climate change. Impacts to children are expected from heat waves, air pollution, infectious and waterborne illnesses, and mental health effects resulting from extreme weather events. In addition, children are among those especially susceptible to most allergic diseases, as well as health effects associated with heat waves, storms, and floods. Additional health concerns may arise in low-income households, especially those with children, if climate change reduces food availability and increases prices, leading to food insecurity within households. More detailed information on the impacts of climate change to human health and welfare is provided in section I.C. of this preamble.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action applies to certain regulated substances and certain applications containing regulated substances, none of which are used to supply or distribute energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This rule will reduce emissions of potent GHGs, which as noted earlier in section I of this preamble will reduce the effects of climate change, including the public health and welfare effects on minority populations, low-income populations and/or indigenous peoples. However, EPA is not yet able to determine whether this action has disproportionately high and adverse effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). A summary of the Agency's approach for considering potential environmental justice concerns as a result of this rulemaking can be found in section III of the preamble, and our environmental justice analysis can be found in the RIA, available in the docket for this rulemaking.

List of Subjects

40 CFR Part 9

Environmental Protection, Reporting and recordkeeping requirements.

40 CFR Part 84

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Climate Change, Emissions, Imports, Reporting and recordkeeping requirements.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, EPA is proposing to amend 40 CFR part 9 and add 40 CFR part 84 as follows:

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

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

Authority: 7 U.S.C. 135 et seq., 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR,

1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 et seq., 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1 amend the table by:
■ a. Adding an undesignated heading for ''Phasedown of Hydrofluorocarbons'' after the entry for ''82.184(e)''; and
■ b. Adding an entry for ''84.29'' in numerical order.

The additions read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Phasedown of Hydrofluorocarbons	
84.29	2060–AV17
* * * * *	

■ 3. Add part 84 to read as follows:

PART 84—PHASEDOWN OF HYDROFLUOROCARBONS

Subpart A—Production and Consumption Controls

Sec.
84.1 Purpose and scope.
84.3 Definitions.
84.5 Prohibitions for regulated substances.
84.7 Phasedown schedule.
84.9 Allocation of calendar-year production allowances.
84.11 Allocation of calendar-year consumption allowances.
84.13 Allocation of application-specific allowances.
84.15 Set aside of application-specific allowances, production allowances, and consumption allowances.
84.17 Availability of additional consumption allowances.
84.19 Transfers of allowances.
84.21 Sale or transfer of regulated substances produced or imported with application-specific allowances
84.23 Certification identification generation and tracking
84.25 Required processes to import regulated substances as feedstocks or for destruction
84.27 Controlling Emissions of HFC–23.
84.29 Destruction of regulated substances.
84.31 Recordkeeping and reporting.
84.33 Auditing of recordkeeping and reporting.

Subpart B—{RESERVED}

Appendix A to Part 84—Regulated Substances

Authority: Section 103 in Division S, Innovation for the Environment, of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260).

Subpart A—Production and Consumption Controls

§ 84.1 Purpose and scope.

(a) The purpose of the regulations in this subpart is to implement the American Innovation and Manufacturing Act of 2020 (AIM Act), enacted as part of Public Law 116–260. The AIM Act imposes limits on the production and consumption of certain regulated substances, according to a specified schedule.

(b) This subpart applies to any person that produces, transforms, destroys, imports, exports, distributes, or reclaims a regulated substance and to end users in the six applications listed in subsection (e)(4)(B)(iv) of the AIM Act.

§ 84.3 Definitions.

As used in this subpart, the term:

Administrator means the Administrator of the United States Environmental Protection Agency or his or her authorized representative. Reports and petitions, as well as any related supporting documents, must be submitted electronically in a format specified by the Administrator.

Allowance means a limited authorization for the production or consumption of a regulated substance established under subsection (e) of section 103 in Division S, Innovation for the Environment, of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260) (the AIM Act). An allowance allocated under subsection (e) of section 103 in Division S of the AIM Act does not constitute a property right and can be retired, revoked, or withheld at the discretion of the relevant Agency official.

Application-specific allowance means a limited authorization granted in accordance with subsection (e)(4)(B)(iv) of the AIM Act for the production or import of a regulated substance for use in the specifically identified applications that are listed in that subsection and in accordance with the restrictions contained at § 84.5(c). An application-specific allowance does not constitute a property right and can be retired, revoked, or withheld at the discretion of the relevant Agency official.

Bulk means a regulated substance of any amount that is in a container for the transportation or storage of that substance such as cylinders, drums, ISO tanks, and small cans. A regulated substance that must first be transferred from a container to another container, vessel, or piece of equipment in order to realize its intended use is a bulk substance. A regulated substance contained in a manufactured product such as an appliance, an aerosol can, or a foam is not a bulk substance.

Central Data Exchange means EPA's centralized electronic document receiving system, or its successors.

Chemical vapor deposition chamber cleaning means, in the context of semiconductor manufacturing, a process type in which chambers used for depositing thin films are cleaned periodically using plasma-generated fluorine atoms and other reactive fluorine-containing fragments.

Confer means to shift unexpended application-specific allowances obtained in accordance with subsection (e)(4)(B)(iv) of the AIM Act from the end user allocated such allowances to another entity for the production or import of a regulated substance for use by the end user.

Consumption, with respect to a regulated substance, means production plus imports minus exports.

Consumption allowances means a limited authorization to produce and import regulated substances; however, consumption allowances may be used to produce regulated substances only in conjunction with production allowances. A person's consumption allowances are the total of the allowances obtained under § 84.11 or 84.15 as may be modified under §§ 84.17 (availability of additional consumption allowances) and 84.19 (transfer of allowances).

Defense spray means an aerosol-based spray used for self-defense, including pepper spray and animal sprays, and containing the irritant capsaicin and related capsaicinoids (derived from oleoresin capsicum), an emulsifier, and an aerosol propellant.

Destruction means the expiration of a regulated substance to the destruction and removal efficiency actually achieved. Such destruction might result in a commercially useful end product, but such usefulness would be secondary to the act of destruction.

Etching means, in the context of semiconductor manufacturing, a process type that uses plasma-generated fluorine atoms and other reactive fluorine-containing fragments that chemically react with exposed thin-films (*e.g.,* dielectric, metals) or substrate (*e.g.,* silicon) to selectively remove portions of material.

Exchange value means the value assigned to a regulated substance in accordance with AIM Act subsections (c) and (e), as applicable, and as provided in appendix A to this part.

Exchange value equivalent (EVe) means the exchange value-weighted amount of a regulated substance obtained by multiplying the mass of a regulated substance by the exchange value of that substance.

Export means the transport from inside the United States or its territories to persons outside the United States or its territories, excluding United States military bases and ships for on-board use.

Exporter means the person who contracts to sell regulated substances for export or transfers regulated substances to his affiliate in another country.

Facility means one or more production lines at the same location owned by or under common control of the same person.

Final customer means the last person to purchase a bulk regulated substance before its intended use.

Foreign country means an entity which is recognized as a sovereign nation or country other than the United States of America.[1]

Heel means the amount of a regulated substance that remains in a container after the container is discharged or off-loaded (that is no more than ten percent of the volume of the container).

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, regardless of whether that landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States. Off-loading used regulated substances from a ship during servicing are not considered imports.

Importer means any person who imports a regulated substance into the United States. ''Importer'' includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term also includes, as appropriate:

(1) The consignee;

(2) The importer of record;

(3) The actual owner; or

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred.

Individual shipment means the kilograms of a regulated substance for which a person may make one (1) U.S. Customs entry, as identified in the non-objection notice obtained from the relevant Agency official in accordance with § 84.25.

Metered dose inhaler (MDI) means a handheld pressurized inhalation system that delivers small, precisely measured therapeutic doses of medication directly to the airways of a patient. MDIs treat health conditions such as asthma and chronic obstructive pulmonary disease and are approved for such use by the U.S. Food and Drug Administration (FDA).

Mission-critical military end uses means those uses of regulated substances by an agency of the Federal Government responsible for national defense which have a direct impact on mission capability, as determined by the U.S. Department of Defense, including, but not limited to uses necessary for development, testing, production, training, operation, and maintenance of Armed Forces vessels, aircraft, space systems, ground vehicles, amphibious vehicles, deployable/expeditionary support equipment, munitions, and command and control systems.

Non-objection notice means the limited authorization granted by the relevant Agency official to import a specific individual shipment of a regulated substance in accordance with § 84.25.

On board aerospace fire suppression means use of a regulated substance in fire suppression equipment used on board commercial and general aviation aircraft and space vehicles. On board commercial aviation fire suppression systems are installed throughout mainline and regional passenger and freighter aircraft, including engine nacelles, auxiliary power units (APUs), lavatory trash receptacles, baggage/crew compartments, and handheld extinguishers.

Person means any individual or legal entity, including an individual, corporation, partnership, association, state, municipality, political subdivision of a state, Indian tribe; any agency, department, or instrumentality of the United States; and any officer, agent, or employee thereof.

Process agent means the use of a regulated substance to form the environment for a chemical reaction (*e.g.,* use as a solvent, catalyst, or stabilizer) where the regulated substance is not consumed in the reaction, but is removed or recycled back into the process and where no more than trace quantities remain in the final product. A feedstock, in contrast, is consumed during the reaction.

Production/Produce means the manufacture of a regulated substance from a raw material or feedstock chemical (but not including the destruction of a regulated substance by a technology approved by the Administrator as provided in § 84.29). The term production does not include:

(1) The manufacture of a regulated substance that is used and entirely consumed (except for trace quantities) in the manufacture of another chemical;

(2) The reclamation, reuse, or recycling of a regulated substance; or

(3) The inadvertent or coincidental creation of insignificant quantities of a regulated substance during a chemical manufacturing process, resulting from unreacted feedstock, from the listed substance's use as a process agent present as a trace quantity in the chemical substance being manufactured, or as an unintended byproduct of research and development applications.

Production allowances means the limited authorization to produce regulated substances; however, production allowances may be used to produce regulated substances only in conjunction with consumption allowances. A person's production allowances are the total of the allowances obtained under § 84.9 or 84.15 as may be modified under § 84.19 (transfer of allowances).

Production line means any process equipment (*e.g.,* reactor, distillation column) used to convert raw materials or feedstock chemicals into regulated substances or consume regulated substances in the production of other chemicals.

Reclaim means the reprocessing of regulated substances to all of the specifications in appendix A of 40 CFR part 82, subpart F (based on AHRI Standard 700–2016) that are applicable to that regulated substance and to verify that the regulated substance meets these specifications using the analytical methodology prescribed in section 5 of appendix A of 40 CFR part 82, subpart F.

Regulated substance means a hydrofluorocarbon listed in the table contained in subsection (c)(1) of the AIM Act and a substance included as a regulated substance by the Administrator under the authority granted in subsection (c)(3). A current list of regulated substances can be found in appendix A of this part.

Source facility means the location at which a used regulated substance was recovered from a piece of equipment.

Structural composite preformed polyurethane foam means a foam blown from polyurethane that is reinforced with fibers and with polymer resin during the blowing process, and is preformed into the required shape (*e.g.,* specific boat or trailer design) to increase structural strength while reducing the weight of such structures.

Transform means to use and entirely consume (except for trace quantities) a controlled substance in the manufacture of other chemicals. A regulated substance that is used and entirely

consumed (except for trace quantities) in the manufacture of another chemical is called a feedstock.

Transhipment means the continuous shipment of a regulated substance, from a foreign country of origin through the United States or its territories, to a second foreign country of final destination, as long as the shipment does not enter interstate commerce. A transhipment, as it moves through the United States or its territories, cannot be re-packaged, sorted or otherwise changed in condition.

Used regulated substances means regulated substances that have been recovered from their intended use systems (including regulated substances that have been, or may be subsequently, recycled or reclaimed).

[1] Taiwan is not considered a foreign country.

§ 84.5 Prohibitions for regulated substances.

(a) *Production.* (1) Effective January 1, 2022, no person may produce regulated substances, intentionally or unintentionally, in excess of the quantity of unexpended production allowances or unexpended application-specific allowances held by that person under the authority of this subpart at that time in that control period. Every kilogram of production in excess of allowances expended constitutes a separate violation of this subpart.

(2) Effective January 1, 2022, no person may use production allowances to produce a quantity of regulated substances unless that person uses an equal quantity of consumption allowances at the same time.

(3) A person is not required to expend production allowances or application-specific allowances to produce regulated substances if the regulated substances are destroyed using a technology approved by the Administrator for destruction under § 84.29 within 30 days if the destruction technology is located at the facility where production occurred or 90 days if the destruction technology is not located at the facility where production occurred.

(b) *Import.* Effective January 1, 2022, (1) No person may import bulk regulated substances, except:

(i) By expending, at the time of the import, consumption or application-specific allowances in a quantity equal to the exchange-value weighted equivalent of the regulated substances imported;

(ii) After receipt of a non-objection notice for substances for use in a process resulting in their transformation or their destruction in accordance with § 84.25(a);

(iii) After receipt of a non-objection notice for used regulated substances imported for destruction in accordance with § 84.25(b); or

(iv) As a transhipment in accordance with § 84.31(c)(3) if all transhipped regulated substance leaves the country within six months of its entry.

(2) Imports authorized under paragraph (b)(1)(ii) of this section may not be in containers designed to hold 100 pounds or less of a regulated substance.

(3) A person issued a non-objection notice for the import of an individual shipment of regulated substances under paragraphs (b)(1)(ii) and (iii) of this section may not transfer or confer the right to import.

(4) No person may introduce into interstate commerce any regulated substance claimed as a transhipment and/or held in a bonded warehouse while in transit.

(5) Every kilogram of bulk regulated substances imported contrary to this paragraph (b) constitutes a separate violation of this subpart.

(c) *Application-specific uses.* (1) Effective January 1, 2022, no person may confer application-specific allowances for the production or import of a regulated substance in excess of the amount of unexpended application-specific allowances held by that person under the authority of this subpart at that time in that control period. No person may expend an application-specific allowance for regulated substances to be used in any application other than the one identified by the application-specific allocation expended. Every kilogram of production in excess of the application-specific allowances expended by the producer constitutes a separate violation of this subpart. Every kilogram of import in excess of the application-specific allowances expended by the importer constitutes a separate violation of this subpart.

(2) No person may use a regulated substance produced or imported using application-specific allowances for any purpose other than those for which the application-specific allowance was allocated, and as set forth in this paragraph (c). Application-specific allowances are apportioned to a person under §§ 84.13 and 84.15 for the production or import of regulated substances solely for the individual application listed on the allowance, which may include:

(i) A propellant in metered dose inhalers;

(ii) Defense sprays;

(iii) Structural composite preformed polyurethane foam for marine use and trailer use;

(iv) The etching of semiconductor material or wafers and the cleaning of chemical vapor deposition chambers within the semiconductor manufacturing sector;

(v) Mission-critical military end uses, such as armored vehicle engine and shipboard fire suppression systems and systems used in deployable and expeditionary applications; and

(vi) On board aerospace fire suppression.

(3) Effective January 1, 2022. (i) No person may acquire application-specific allowances unless for use in the same application as associated with the application-specific allowance. No person may transfer application-specific allowances unless for use in the same application as associated with the application-specific allowance.

(ii) No person may acquire or sell regulated substances produced or imported using application-specific allowances for use in anything other than the application for which it was originally allocated. Every kilogram of a regulated substance imported or exported in contravention of this paragraph constitutes a separate violation of this subpart.

(d) *International transfers.* Effective January 1, 2022. (1) no person subject to the requirements of this subpart may transfer a production allowance to a person in a foreign country unless that country has established the same or similar requirements or otherwise undertaken commitments regarding the production and consumption of regulated substances as are contained in the AIM Act, as determined by the EPA.

(2) Similarly, no person may transfer production allowances to or from a person in a foreign country without satisfying the requirements in § 84.19. Every production allowance transferred in contravention of this paragraph constitutes a separate violation of this subpart.

(e) *Violations.* No person may sell or distribute, or offer for sale or distribution, any regulated substance that was produced or imported in violation of paragraphs (a) through (d) of this section, except for such actions needed to re-export the regulated substance. Every kilogram of a regulated substance sold or distributed, or offered for sale or distribution, in contravention of this paragraph constitutes a separate violation of this subpart.

(f) *False information.* No person may provide false information to the EPA when petitioning, reporting, or for any

communication required under this subpart.

(g) *Agency actions.* The Agency has full discretion to retire, revoke, or withhold the allocation of allowances for actions in contravention of this part.

(h) *Anti-Dumping/Countervailing Duties.* The relevant Agency official reserves the right to retire, revoke, or withhold the allocation of allowances to any otherwise qualifying importer that is in arrears with Anti-Dumping/Countervailing Duties required under a final determination from the Department of Commerce.

(i) *Disposable cylinders.* (1) Effective July 1, 2023, no person may import or place a regulated substance in a non-refillable cylinder.

(2) Effective January 1, 2025, no person may sell or offer for sale regulated substances contained in a non-refillable cylinder.

(3) Small cans containing less than two pounds of regulated substances that utilize a self-sealing valve that meets the requirements in 40 CFR 82.154(c)(2) are not subject to this restriction.

(j) *Labeling.* (1) Effective January 1, 2022, no person may sell or distribute, or offer to sell or distribute, containers containing a regulated substance that lacks a label or other permanent markings, in numbers and letters at least ⅛ inch high, stating the common name of the regulated substances or blend contained, the composition and ratios of the regulated substances if a blend, and a cylinder serial number.

(2) No person other than the importer may repackage material that was initially unlabeled or mislabeled unless the importer:

(i) Expends consumption allowances equal to the amount of allowances that would be required if each cylinder were full of HFC–23; or

(ii) Verifies the contents with independent laboratory testing results and fixes a label on the container conveying the lab-verified test results before the container enters interstate commerce.

§ 84.7 Phasedown schedule.

(a) *Phasedown from baseline.* Total production and consumption of regulated substances in the United States in each year cannot exceed the amounts (shown as a percentage of baseline) in the following table:

Date	Percentage of production baseline (percent)	Percentage of consumption baseline (percent)
2022–2023	90	90
2024–2028	60	60
2029–2033	30	30
2034–2035	20	20
2036 and thereafter	15	15

(b) *Annual production and consumption limits.* (1) The production baseline for regulated substances is 375 million metric tons of exchange value equivalent.

(2) The consumption baseline for regulated substances is 299 million metric tons of exchange value equivalent.

(3) Total production and consumption in million metric tons of exchange value equivalent for regulated substances in the United States in each year is derived by multiplying the production baseline or consumption baseline by the percentage in paragraph (a) of this section. Total production and consumption allowances issued under this subpart may not exceed the quantities shown in the following table:

Date	Total production (MMTEVe)	Total consumption (MMTEVe)
2022–2023	337.5	269.1
2024–2028	225	179.4
2029–2033	112.5	89.7
2034–2035	75	59.8
2036 and thereafter	56.25	44.85

§ 84.9 Allocation of calendar-year production allowances.

(a) EPA will issue, through a separate notification, calendar year production allowances to entities that produced a regulated substance in 2020. The number of production allowances allocated to each eligible entity for 2022–2023 is calculated as follows:

(1) Take the highest annual exchange value-weighted production amount that each eligible entity reported to the agency for calendar year 2017, 2018, or 2019, whichever year is highest.

(2) Sum the ''high year'' values determined in step 1 of all eligible entities and determine each entity's percentage of that total.

(3) Determine the amount of general pool production allowances by subtracting the quantity of application specific allowances for that year as determined in accordance with § 84.13 and the set aside in § 84.15 from the production cap in § 84.7(b)(3).

(4) Determine individual entities' production allowance quantities by multiplying each entity's percentage determined in step 2 by the amount of general pool allowances determined in step 3.

(b) (1) EPA will allocate calendar year production allowances to individual entities by October 1 of the calendar year prior to the year in which the allowances will be used based on the exchange value-weighted quantities calculated in paragraph (a)(4) of this section.

(2) EPA will provide public notice of the list of companies receiving production allowances as well as the quantities they will be allocated by that date.

(3) In addition to the procedure in paragraph (a) of this section, EPA will allocate calendar year production allowances to entities that qualified for allowances under § 84.15.

(4) If there are remaining production allowances after distribution from the set aside under § 84.15, EPA will distribute such allowances on a pro rata basis to the entities in paragraph (a) of

this section by March 31 of the calendar year in which the allowances will be used.

§ 84.11 Allocation of calendar-year consumption allowances.

(a) EPA will issue, through a separate notification, calendar year consumption allowances to entities that imported or produced a bulk regulated substance in 2020, unless an individual accommodation is permitted by a relevant Agency official. If multiple importers are related through shared corporate ownership or control, EPA will calculate and issue allowances to a single corporate owner. The number of consumption allowances allocated to each eligible entity for 2022–2023 is calculated as follows:

(1) Take the highest annual exchange value-weighted bulk consumption amount chosen at the corporate-level for eligible entities reporting to the agency for each calendar year 2017, 2018, or 2019, whichever year is highest.

(2) Sum the ''high year'' values determined in step 1 of all eligible entities and determine each entity's percentage of that total.

(3) Determine the amount of general pool consumption allowances by subtracting the quantity of application specific allowances for that year as determined in accordance with § 84.13 and the set aside in § 84.15 from the consumption cap § 84.7(b)(3).

(4) Determine individual entity consumption allowance quantities by multiplying each entity's percentage determined in step 2 by the amount of general pool allowances determined in step 3.

(b)(1) EPA will allocate calendar year consumption allowances to individual entities by October 1 of the calendar year prior to the year in which the allowances will be used based on the exchange value-weighted quantities calculated in paragraph (a)(4) of this section.

(2) EPA will provide public notice of the list of companies receiving consumption allowances as well as how they will be allocated by that date.

(c)(1) In addition to the procedure in paragraph (a) of this section, EPA will allocate calendar year consumption allowances to entities that qualified for allowances under § 84.15.

(2) If there are remaining consumption allowances after distribution from the set aside under § 84.15, EPA will distribute such allowances on a pro rata basis to the entities in paragraph (a) of this section by March 31 of the calendar year.

§ 84.13 Allocation of application-specific allowances.

(a) Application-specific allowances are available to entities for calendar years 2022, 2023, 2024, and 2025 that use a regulated substance in the following applications:

(1) As a propellant in metered dose inhalers;

(2) In the manufacture of defense sprays;

(3) In the manufacture of structural composite preformed polyurethane foam for marine use and trailer use;

(4) In the etching of semiconductor material or wafers and the cleaning of chemical vapor deposition chambers within the semiconductor manufacturing sector;

(5) For mission-critical military end uses; and

(6) For on board aerospace fire suppression.

(b) Entities in paragraph (a) of this section must request an application-specific allowance by July 31 of the calendar year prior to the year in which the allowances will be used starting with the calendar year 2023 allocation. The application must include the following:

(1) Total quantity (in kilograms) of each specific regulated substance acquired and used in the three calendar years prior to the year in which the request is being made;

(2) For regulated substances acquired over the past twelve months by conferring allowances to a domestic producer, the quantity (in kilograms) acquired, the specific regulated substance acquired, and the name and contact information of the supplier.

(3) For regulated substances acquired over the past twelve months by conferring allowances to an importer, the quantity (in kilograms) acquired, the specific regulated substance acquired, and the name and contact information of the supplier.

(4) Quantity of each specific regulated substances acquired over the past twelve months by expending application-specific allowances for direct import;

(5) Quantity of each specific regulated substance acquired over the past twelve months without expending application-specific allowances;

(6) Quantity of regulated substances held in inventory by the applicant or another company on behalf of the applicant;

(7) A description of any plans to transition to regulated substances with a lower exchange value or alternatives to regulated substances, including not in kind substitutes.

(c) EPA will determine the quantity of application-specific allowances to issue to each company by taking the higher of the use of regulated substances by the company in the specific application in the prior year multiplied by:

(1) The average growth rate of use for the company over the past three years; or

(2) The average growth rate of use by all companies requesting allowances for that specific application over the past three years.

(d) EPA will allocate application-specific allowances through a letter to each eligible entity by October 1 of the calendar year prior to the year in which the allowances will be used. The letter will indicate the name of the company, the year of the allowance, the quantity of allowances, and the specific application for which the allowances may be used.

(e) Entities that EPA was unaware of as of October 1, 2021, may request allowances under the procedure in § 84.15. Such entities must meet the criteria for eligibility in this section and are subject to the requirements of this section.

(f) EPA will publish a list of companies allocated application-specific allowances and their application.

(g) Application-specific allowances may be expended for either the import or production of a regulated substance.

(h) Conferring application-specific allowances to a producer or importer is not subject to the offset required of transfers of allowances described in § 84.19.

§ 84.15 Set aside of application-specific allowances, production allowances, and consumption allowances.

(a) Total allowances available under this section to be allocated for calendar years 2022 and 2023 are:

(1) Five million metric tons of exchange value equivalent consumption allowances annually for calendar year 2022 and 2023.

(2) One million metric tons of exchange value equivalent production allowances for calendar year 2022 and 2023.

(b)(1) Consumption and production allowances in paragraph (a) of this section are available to entities that qualify for application-specific allocations under § 84.13 that EPA has not identified by October 1, 2021.

(2) Entities must provide the relevant Agency official with the information contained in § 84.13 by November 30, 2021, to be eligible for consideration.

(c) Consumption allowances in paragraph (a) of this section are available to either:

(1) Persons who imported regulated substances in 2020 that were not

required to report under 40 CFR part 98 that EPA has not identified by October 1, 2021; or

(2) Persons who are newly entering the HFC import market, do not share corporate ownership or familial relations with entities in the HFC import market, and meet the Small Business Administration conditions for a small business in 13 CFR part 121.

(d) Persons who meet the criteria listed in paragraph (c)(1) or (2) of this section must provide the relevant Agency official with the following information by November 30, 2021, to be eligible for consideration:

(1) Name and address of the company and the complete ownership of the company (with percentages of ownership);

(2) Whether the company is a woman or minority owned business;

(3) Contact information for the owner of the company;

(4) The date of incorporation and State in which the company is incorporated;

(5) State license identifier;

(6) A plan for importing HFCs;

(7) Company employment figures including number of employees and a breakdown by race and gender;

(8) A prospective foreign exporter that the applicant anticipates working with; and

(9) For persons who meet the criteria listed in paragraph (c)(2) of this section only, documentation demonstrating that they meet conditions for a small business concern, as defined in 13 CFR part 121.

(e) The calendar-year 2022 and 2023 allowances in paragraph (a) of this section are to be allocated no later than March 31, 2022, in the following manner:

(1) First, persons who meet the criteria listed in (b) are allocated application-specific allowances (subtracted from both the production and consumption portions of the set aside pool) for 2022 equal to the estimated need, based on projected, current, and historical trends, and subject to the same conditions for such allowances in § 84.13;

(2) Second, persons who meet the criteria listed in paragraphs (c)(1) and (2) of this section are allocated up to 0.2 million metric tons exchange value equivalent in allowances for 2022 and 2023.

(3) If the requests received total an amount of allowances that exceeds the remaining quantity of allowances in the set aside pool, after subtracting allowances issued under paragraph (c)(1) of this section, the amount provided to each person who meet the criteria listed in paragraphs (c)(1) and (2) of this section that has applied to the set aside pool will be allocated an amount of allowances that is reduced on a pro rata basis. If any allowances remain after the steps outlined in paragraphs (c)(1) through (3) of this section, those allowances will be distributed to the persons who meet the criteria listed in §§ 84.9 and 84.11 on a pro rata basis.

(f) Restrictions:

(1) Allowances issued under this section may not be transferred to another entity.

(2) Allowances issued under this section are not available to companies that are a subsidiary of, or have any common ownership stake with, another allowance holder.

(g) EPA will publish the list of entities allocated allowances under this section by March 31, 2022.

§ 84.17 Availability of additional consumption allowances.

(a) A person may obtain at any time during the year, in accordance with the provisions of this section, consumption allowances equivalent to the quantity of regulated substances that the person exported from the United States and its territories to a foreign country in accordance with this section, when that quantity of regulated substance was produced in the United States or imported into the United States with expended consumption allowances. Both the export of the regulated substance and the request for additional consumption allowances must occur during the calendar year in which the consumption allowances were expended to produce or import those same regulated substances.

(1) The exporter must submit to the relevant Agency official a request for consumption allowances setting forth the following:

(i) The identities and addresses of the exporter and the recipient of the exports;

(ii) The exporter's Employer Identification Number;

(iii) The names, telephone numbers, and email addresses of contact persons for the exporter and the recipient;

(iv) The quantity (in kilograms) and name of the regulated substances exported;

(v) The source of the regulated substances and the date purchased;

(vi) The date on which, and the port from which, the regulated substances were exported from the United States or its territories;

(vii) The country to which the regulated substances were exported;

(viii) A copy of the bill of lading and the invoice indicating the net quantity (in kilograms) of regulated substances shipped and documenting the sale of the regulated substances to the purchaser;

(ix) The commodity codes of the regulated substances exported; and

(x) A written statement from the producer that the regulated substances were produced with expended allowances or a written statement from the importer that the regulated substances were imported with expended allowances.

(2) The relevant Agency official will review the information and documentation submitted under paragraph (a)(1) of this section and will issue a notice to the requestor.

(i) The relevant Agency official will determine the quantity of regulated substances that the documentation verifies was exported and issue consumption allowances equivalent to the quantity of regulated substances that were exported.

(A) The grant of the consumption allowances will be effective on the date the notice is issued.

(B) The consumption allowances will be granted to the person the exporter indicates, whether it is the producer, the importer, or the exporter.

(ii) The relevant Agency official will issue a notice that the consumption allowances are not granted if the official determines that the information and documentation do not satisfactorily substantiate the exporter's claims.

§ 84.19 Transfers of allowances.

(a) *Inter-company transfers.* Effective January 1, 2022, a person (''transferor'') may transfer to any other person (''transferee'') any quantity of the transferor's production allowances, consumption allowances, or application-specific allowances for use by the same type of application, as long as the following conditions are met:

(1) An offset equal to five percent of the amount of allowances transferred will be deducted from the transferor's production allowance balance if a transfer is made of production allowances, or deducted from the transferor's consumption allowance balance if a transfer is made of consumption allowances. In the case of transferring application-specific allowances, one percent of the amount of allowances transferred will be deducted from the transferor's application-specific allowance balance.

(2) The transferor must submit to the relevant Agency official a transfer claim setting forth the following:

(i) The identities and addresses of the transferor and the transferee;

(ii) The names, telephone numbers, and email addresses of contact persons for the transferor and the transferee;

(iii) The type of allowances being transferred, including the specific application (if applicable), for which allowances are to be transferred;

(iv) The quantity (in MTEVe) of allowances being transferred;

(v) The total cost of the allowances transferred;

(vi) The amount of unexpended allowances of the type and for the year being transferred that the transferor holds under authority of this subpart as of the date the claim is submitted to EPA;

(vii) For transfers of consumption allowances or production allowances, the quantity of the five percent offset applied to the quantity transferred that will be deducted from the transferor's allowance balance. For transfers of application-specific allowances, the quantity of the one percent offset applied to the quantity transferred that will be deducted from the transferor's allowance balance.

(viii) For transfers of application-specific allowances, a signed document from the transferee certifying that the transferee will use the application-specific allowances only for the same application for which the application-specific allowance was allocated.

(3) The relevant Agency official will determine whether the records maintained by EPA indicate that the transferor possesses unexpended allowances sufficient to cover the transfer claim as of the date the transfer claim is processed. The transfer claim is the quantity in EVe to be transferred plus five percent of that quantity or plus one percent for application-specific allowances. The relevant Agency official will take into account any previous transfers, any production, and allowable imports and exports of regulated substances reported by the transferor. Within three working days of receiving a complete transfer claim, the official will take action to notify the transferor and transferee as follows:

(i) The relevant Agency official will issue a non-objection notice to both the transferor and transferee indicating if EPA's records show that the transferor has sufficient unexpended allowances to cover the transfer claim. In the case of transfers of production allowances or consumption allowances, EPA will reduce the transferor's balance of unexpended allowances by the quantity to be transferred plus five percent of that quantity. In the case of transfers of application-specific allowances EPA will reduce the transferor's balance of unexpended allowances by the quantity to be transferred plus one percent of that quantity. The transferor and the transferee may proceed with the transfer when EPA issues a non-objection notice. However, if EPA ultimately finds that the transferor did not have sufficient unexpended allowances to cover the claim, the transferor and transferee, where applicable, will be held liable for any violations of the regulations of this subpart that occur as a result of, or in conjunction with, the improper transfer.

(ii) The relevant Agency official will issue an objection notice disallowing the transfer if EPA's records show that the transferor has insufficient unexpended allowances to cover the transfer claim, or that the transferor has failed to respond to one or more Agency requests to supply information needed to make a determination. Either transferor or transferee may file a notice of appeal, with supporting reasons, with the relevant Agency official within 10 working days after receipt of notification that a transfer was disallowed. The official may affirm or vacate the disallowance. If no appeal is filed electronically by the tenth working day after notification, the disallowance shall be final on that day.

(4) The transferer and transferee must maintain a copy of the transfer claim and a copy of EPA's non-objection or objection notice for five years.

(b) *International transfers of production allowances.* (1) A person may request to increase or decrease their production allowances for a specified control period through transfers of such allowances with a person in a foreign country if the applicable conditions in this paragraph are met. Once transferred, all allowances transferred consistent with this paragraph will function as a production allowance, as defined in § 84.3.

(i) *Timing of requests.* Any request for an increase or decrease in production allowances based on an international transfer under this paragraph must be submitted by October 1 of the year prior to the calendar year in which the transferred allowances would be useable.

(ii) *Timing of the transfer.* International transfers under this paragraph will be deemed to occur, and the transferred allowances will be useable, as of January 1 of the calendar year to which the transfer applies.

(2) *Transfer from a person in a foreign country—Information requirements.* (i) A person requesting to change their production allowances based on a transfer from a person in a foreign country must submit to the relevant Agency official at the time the international transfer is requested a signed document from an official representative in that country's embassy in the United States stating that the appropriate authority within that country has revised the domestic production limits for that country equal to the lowest of the following three production quantities:

(A) The maximum production level permitted in § 84.7(b) in the year of the international transfer minus the quantity of production allowances (in exchange value-weighted kilograms) to be transferred;

(B) The maximum production level for the applicable regulated substances that are allowed under applicable law (including the foreign country's applicable domestic law) minus the quantity of production allowances (in exchange value-weighted kilograms) to be transferred; or

(C) The average of the foreign country's actual national production level of the applicable regulated substances for the three calendar years prior to the year of the transfer minus the quantity of production allowances (in exchange value-weighted kilograms) to be transferred.

(ii) A person requesting a revision based on a transfer from a foreign country (''transferee'') must also submit to the relevant Agency official a true copy of the document that sets forth the following:

(A) The identity and address of the transferee;

(B) The foreign country authorizing the transfer;

(C) The names, telephone numbers, and email addresses of contact persons for the transferee and for the person in the foreign country;

(D) The name of the chemical and quantity (in kilograms) of production being transferred;

(E) Documentation that the foreign country possesses the necessary quantity of unexpended production rights;

(F) The calendar year to which the transfer applies; and

(G) A signed statement from a responsible official describing whether the increased production is intended for export or the market in the United States.

(3) *Transfer to a person in a foreign country—Information requirements.* A person requesting a transfer to a person in a foreign country must submit a request to the relevant Agency official that sets forth the following information:

(i) The identity and address of the person seeking to transfer the allowances (''transferor'');

(ii) The foreign country authorizing the transfer;

(iii) The names, telephone numbers, and email addresses of contact persons for the transferor and for the person in the foreign country;

(iv) The name of the chemical and quantity (in kilograms) of allowable production being transferred; and

(v) The calendar year to which the transfer applies;

(vi) A signed statement from a responsible official requesting that the relevant Agency official revise the number of production allowances the transferor holds such that the aggregate national production in the United States is equal the lowest of the following three production quantities:

(A) The maximum production level permitted in § 84.7(b) in the year of the international transfer minus the quantity of production allowances (in exchange value-weighted kilograms) to be transferred;

(B) The maximum production for the applicable regulated substances that are allowed under applicable law minus the quantity of production allowances (in exchange value-weighted kilograms) to be transferred; or

(C) The average of the United States' actual national production level of the applicable regulated substances for the three calendar years prior to the year of the transfer minus the quantity of production allowances (in exchange value-weighted kilograms) to be transferred.

(4) *Review of international transfer request to a foreign country.* After receiving a transfer request that meets the requirements of paragraph (b)(3) of this section, the relevant Agency official may, at his/her discretion, consider the following factors in deciding whether to approve such a transfer:

(i) Potential environmental implications; and

(ii) The total quantity of unexpended production allowances held by U.S. entities.

(5) *Notice of transfer.* The relevant Agency official will review the submitted requests to determine whether the foreign country in which the person is located has enacted or otherwise established the same or similar requirements or otherwise undertaken commitments regarding the production and consumption of regulated substances as are contained in the AIM Act, within a reasonable time frame of the date of its enactment. If it is determined that these conditions are not met, the relevant Agency official will notify the requestor in writing that no transfers to or from the country can occur. If these conditions are satisfied such that transfers to or from the country can occur, the relevant Agency official will consider if the request meets the applicable requirements of paragraph (b) of this section. If the request meets the requirements of paragraph (b)(2) of this section for transfers from foreign countries and paragraph (b)(3) of this section for transfers to foreign countries, and if the relevant Agency official has not decided to disapprove the request based on consideration of factors listed in paragraph (b)(4) of this section if applicable, the relevant Agency official will notify the person in writing that the appropriate production allowances were either granted or deducted and specify the control period to which the transfer applies. Notifications of production allowances granted or deducted will be provided before January 1 of the calendar year to which the transfer applies.

(i) For transfers from a foreign country, such notification will reflect a revision of the balance of allowances held by the recipient of the transfer to equal the unexpended production allowances held by the recipient of the transfer plus the quantity of allowable production transferred from the foreign country minus an offset of five percent of the quantity transferred. The relevant Agency official will not adjust available allowances until the foreign country's representative had confirmed the appropriate number of allowances were deducted in the foreign country.

(ii) For transfers to a foreign country, such notification will reflect a revision of the balance of production allowances for the transferor such that the aggregate national production of the regulated substance to be transferred is to equal the value the relevant Agency official determines to be the lowest of:

(A) The maximum production level permitted in § 84.7(b) in the year of the international transfer minus the quantity of production allowances transferred and minus an offset of five percent of the quantity transferred; or

(B) The maximum production level for the applicable regulated substances that is allowed under applicable law (in exchange-value weighted kilograms) minus the quantity of production allowances transferred and minus an offset of five percent of the quantity transferred; or

(C) The average of the actual annual U.S. production of the applicable regulated substances for the three years prior to the date of the transfer (in exchange-value weighted kilograms minus the quantity of production allowances transferred and minus an offset of five percent of the quantity transferred.

(6) *Revised production limit for previous transferors.* If the average actual U.S. production during the three most recent calendar years before the date of the transfer is less than the total allowable U.S. production for the applicable regulated substances permitted in § 84.7(b) for a calendar year for which international transfers are approved to occur, the aggregate allowed national U.S. production of those substances will be reduced by an additional amount beyond a simple deduction of the number of allowances reflected in the notifications under paragraph (b)(5)(ii)(B) of this section. In these circumstances, the relevant Agency official will revise the production limit for each transferor who obtained approval of a transfer of the applicable regulated substances to a foreign country in the same calendar year and notify each transferor of the revision in writing. The amount of the revision will equal the result of the following set of calculations:

(i) The total U.S. allowable production of the applicable regulated substances minus the average of the actual annual U.S. production of those substances during the three most recent calendar years prior to the calendar year of the transfer;

(ii) The quantity of production allowances for the applicable regulated substances transferred by the transferor in that calendar year divided by the total quantity of production allowances for those substances approved for transfer to a person in a foreign country by all the persons approved to make such transfers in that calendar year;

(iii) The result of paragraph (b)(6)(i) of this section multiplied by the result of paragraph (b)(6)(ii) of this section.

(iv) The unexpended production allowances held by the person minus the result of paragraph (b)(6)(iii) of this section.

(7) *Effective date of revised production limits.* If a revision is issued under paragraph (b)(6) of this section, the change in production allowances will be effective on the date that the notification is issued.

§ 84.21 Sale or transfer of regulated substances produced or imported with application-specific allowances.

(a) *Sale or transfer of HFCs produced or imported using application-specific allowances.* (1) Effective January 1, 2022, any person receiving an application-specific allowance (transferor) may sell or transfer regulated substances produced or imported using that allowance to another person within the same application (transferee) provided that

the relevant Agency official approves the sale or transfer.

(2) The transferee must submit a claim to the relevant Agency official for approval before the sale or transfer can take place. The claim must set forth the following:

(i) The identities and addresses of the transferor and the transferee;

(ii) The name, telephone numbers, and email addresses of contact persons for the transferor and the transferee;

(iii) The amount of each regulated substance being sold or transfered;

(iv) The cost of the regulated substance;

(v) The specific products that the transferee plans to produce with the HFCs; and

(vi) Certification that the HFCs will be used only for the same application for which the application-specific allowance under which the substances were produced or imported was allocated.

(3) The transferor must submit a letter to the relevant Agency official stating that it concurs with the terms of the sale or transfer as requested by the transferee.

(4) Once the claim is complete, and if EPA does not object to the sale or transfer, then EPA will issue letters to the transferor and the transferee within 10 business days indicating that the transaction may proceed. EPA reserves the right to disallow a transaction if the claim is incomplete, or if it has reason to believe that the transferee plans use the regulated substance in anything other than the stated application. If EPA objects to the transaction, EPA will issue letters to the transferor and transferee stating the basis for disallowing the transaction.

(5) The burden of proof is placed on the transferee to retain sufficient records to prove that the sold or transfered regulated substances are used only for the stated application.

(b) [Reserved].

§ 84.23 Certification identification generation and tracking.

(a) *Scope and applicability.* All containers of bulk regulated substance must be associated with a certification identification as of January 1, 2024. Certification identifications may only be generated by a person that produces, imports, reclaims, repackages, or blends regulated substance for distribution or sale in bulk and reports to EPA consistent with paragraph (d) of this section.

(b) *Prohibitions.* Effective January 1, 2024, every kilogram of bulk regulated substance sold or distributed, or offered for sale or distribution, in violation of this section is a separate violation of this subpart. Every kilogram of bulk regulated substance purchased or received, or attempted to be purchased or received in violation of this section is a separate violation of this subpart.

(1) No person may sell or distribute, or offer for sale or distribution, and no person may purchase or receive, or attempt to purchase or receive, a regulated substance unless the container has a valid certification identification.

(2) No person may sell or distribute, or offer for sale or distribution, regulated substance unless they are registered with EPA consistent with § 84.31.

(3) No person may purchase or receive, or attempt to purchase or receive, the regulated substance unless the person is registered with EPA consistent with paragraph (d) or a final customer;

(4) The following situations are exempt from the prohibitions in paragraphs (b)(1) through (3) of this section:

(i) The regulated substance is part of a transhipment and the person transhipping the regulated substance has reported to EPA consistent with § 84.31(c)(3);

(ii) The regulated substance was:

(A) Previously used, has been recovered from a piece of equipment, and is intended for reclamation;

(B) The person selling or distributing the regulated substance certifies in writing to the person purchasing or receiving the regulated substance was recovered from a piece of equipment and provides the date of recovery; and

(C) The person purchasing or receiving the regulated substance is either an EPA-certified refrigerant reclaimer or a registered supplier of regulated substances consistent with paragraph (d) of this section.

(iii) The regulated substance was imported consistent with the petition process described in § 84.25 and is being distributed by an aggregator or destruction company; or

(iv) The material was collected for destruction at a destruction facility.

(5) No producer or importer may request certification identifications that would exceed their currently available allowances.

(6) A person who reclaims regulated substances may request certification identifications at a level equal to their reported reclamation for the prior year plus an amount based on the average annual growth in total U.S. HFC reclamation in the prior three years or five percent, whichever is higher. If that level is not sufficient, the reclaimer must notify EPA 45 days in advance of exceeding their allowed level and request approval to generate additional certification identifications. The request must estimate the additional certification identifications needed for the next six months and provide an explanation for the increased level of reclamation. EPA will review the request and adjust the amount of certification identifications for the person as appropriate within 21 days. Additional requests can be submitted throughout the year as needed.

(7) No regulated substance repackager or blender may request certificate identifications unless they have allowances. They may generate new QR codes based on the certification identifications associated with the containers currently in their possession.

(c) *Required Practices.* The following practices are required, unless the person purchasing or receiving the bulk regulated substance is listed in paragraph (b)(4) of this section:

(1) Any person producing, importing, reclaiming, packaging, selling or distributing, or offering to sell or distribute regulated substances must register with EPA consistent with paragraph (d) of this section.

(2) Any person who introduces a container of regulated substance or reclaimed regulated substance into U.S. commerce, must permanently affix a QR code to the container that documents a valid certification identification using the standards defined by EPA prior to the container entering U.S. commerce. For the purposes of this subpart, examples of when a container of regulated substance or reclaimed regulated substance enters U.S. commerce include arrival at U.S. Customs and departure from a production or reclamation facility.

(3) At the time of sale or distribution, a person selling or distributing regulated substance must ensure there is a valid and legible certification identification on each container of regulated substance, scan the certification identification system to identify a transaction, identify the person receiving the regulated substance, and indicate whether the person receiving the regulated substance is a final customer or supplier.

(4) At the time of sale or distribution, a person taking ownership of a regulated substance that is a registered supplier must ensure there is a valid and legible certification identification on each container of regulated substance and scan the certification identification in the certification identification system to identify a transaction.

(d) *Recordkeeping and Reporting*—(1) *Importers.* Any person importing a

container of regulated substance must enter the following information in the certification identification system to generate a new QR code and associated certification identification for each container of regulated substance: The name or brand the regulated substance is being sold and/or marketed under, the date it was imported, the unique serial number associated with the container, and amount and name of the regulated substance(s) in the container.

(2) *Reclaimers.* Any person filling a container with a reclaimed regulated substance must enter the following information in the certification identification system to generate a new QR code and associated certification identification for each container of regulated substance: The name or brand the regulated substance is being sold and/or marketed under, the date the regulated substance was reclaimed and by whom, the date the reclaimed regulated substance was put into a container, the unique serial number associated with the container, the amount and name of the regulated substance(s) in the container, whether the purity of the batch was confirmed to meet the specifications in appendix A to 40 CFR part 82, subpart F, the date the batch was tested for purity, and who certified the reclaimed regulated substance meets the purity specifications. If a container is filled with reclaimed and virgin regulated substance(s), the reclaimer must provide the amount of virgin regulated substance is included in the container and the certification identification(s) associated with that regulated substance.

(3) *Producers and Packagers.* Anyone who is filling a container, whether for the first time after production or when transferring regulated substance from one container to one or more smaller or larger containers, must enter information in the certification identification system and generate a new QR code for the container(s) of repackaged regulated substances: The name or brand the regulated substance is being sold and/or marketed under, the date it was repackaged, the certification identification(s) associated with the regulated substance being repackaged, the unique serial number for the container, and amount and name of the regulated substance(s) in the container, and the quantity of containers it was packaged in, and the size of the containers.

(4) *Receiving recovered regulated substances.* Anyone receiving recovered regulated substances for purposes of reclamation must save a copy of the written certification required under paragraph (b)(4)(ii) of this section.

(5) *Certification identification generators registration.* Any person who introduces a container of regulated substance or reclaimed regulated substance into U.S. commerce must register with EPA in the certification identification system. The report must contain the name and address of the company; contact information for the owner of the company; the date(s) of and State(s) in which the company is incorporated and State license identifier(s); the address of each facility that sells or distributes regulated substances; how the company introduces bulk regulated substances into U.S. commerce; and the category of final customer(s) the supplier sells or distributes regulated substances to. These reports must be updated and resubmitted within 60 days if information changes.

(6) *Supplier Registration.* Any person who sells, distributes, or offers for sale or distribution, regulated substances must register with EPA in the certification identification system. The report must contain the name and address of the company; contact information for the owner of the company; the date(s) of and State(s) in which the company is incorporated and State license identifier(s); the address of each facility that sells or distributes regulated substances; and the category of final customer(s) the supplier sells or distributes regulated substances to. These reports must be updated and resubmitted within 60 days if information changes.

(7) *Container inventory. one-time report.* In order to receive certification identifications for containers of previously purchased regulated substance, any person who sells or distributes, or offers to sell or distribute, containers of bulk regulated substance must register their containers in inventory by November 15, 2023. The report must contain the name and address of the company; contact information for the owner of the company; inventory of regulated substance owned by the company as of December 31, 2020, December 31, 2021, and December 31, 2022; for each container of regulated substance still in the company's possession, the amount and name of the regulated substance in the container, any unique identification number assigned to the container, whether the regulated substance was acquired from a domestic supplier, though import, or through reclamation, and the date the regulated substance was acquired, imported, or reclaimed; and a certification from the owner of the company or other responsible officer that the regulated substance in his/her/their possession was acquired consistent with the laws of the United States.

§ 84.25 Required processes to import regulated substances as feedstocks or for destruction.

(a)(1) *Petition to import regulated substances for use in a process resulting in transformation or destruction.* A person must petition the relevant Agency official for the import of each individual shipment of a regulated substance imported for use in a process resulting in transformation or destruction in order to not expend allowances. A petition is required at least 30 working days before the shipment is to leave the foreign port of export, and must contain the following information:

(i) Name, commodity code, and quantity in kilograms of each regulated substance to be imported;

(ii) Name and address of the importer, the importer ID number, and the contact person's name, email address, and phone number;

(iii) Name and address of the consignee and the contact person's name, email address, and phone number;

(iv) Source country;

(v) The U.S. port of entry for the import, the expected date of import, and the vessel transporting the material. If at the time of submitting the petition the importer does not know this information, and the importer receives a non-objection notice for the individual shipment in the petition, the importer is required to notify the relevant Agency official of this information prior to the entry of the individual shipment into the United States;

(vi) Name, address, contact person, email address, and phone number of the responsible party at the facility where the regulated substance will be used in a process resulting in the substance's transformation or destruction;

(2) *Review of petition to import for use in a process resulting in transformation or destruction.* (i) The relevant Agency official will initiate a review of the information submitted under paragraph (a)(1) of this section and take action within 30 working days to issue either an objection notice or a non-objection notice for the individual shipment to the person who submitted the petition.

(ii) The relevant Agency official may issue an objection notice to a petition for the following reasons:

(A) If the relevant Agency official determines that the information is insufficient, that is, if the petition lacks or appears to lack any of the information

required under paragraph (a)(1) of this section or other information that may be requested during the review of the petition necessary to verify that the regulated substance is for use in a process resulting in transformation or destruction;

(B) If the relevant Agency official determines that any portion of the petition contains false or misleading information, or the official has information from other U.S. or foreign government agencies indicating that the petition contains false or misleading information.

(iii) Within 10 working days after receipt of an objection notice with the basis being ''insufficient information,'' the importer may re-petition the relevant Agency official. If no re-petition is taken by the tenth working day after the date on the objection notice, the objection shall become final. Only one re-petition will be accepted for any petition received by EPA.

(iv) Any information contained in the re-petition which is inconsistent with the original petition must be identified and a description of the reason for the inconsistency must accompany the re-petition.

(v) In cases where the relevant Agency official does not object to the petition, the official will issue a non-objection notice.

(vi) If, following EPA's issuance of a non-objection notice, new information is brought to EPA's attention which shows that the non-objection notice was issued based on false information, then EPA has the right to:

(A) Revoke the non-objection notice;

(B) Pursue all means to ensure that the regulated substance is not imported into the United States; and

(C) Take appropriate enforcement actions including but not limited to seizing regulated substances that have already been imported into the United States and revoking or withholding allowances.

(3) *Timing.* An individual shipment authorized through a non-objection notice must be used in the process resulting in its transformation or destruction within sixty days of import.

(4) *Quantity.* An individual shipment authorized through a non-objection notice may not exceed the quantity (in MTEVe) of the regulated substance stated in the non-objection notice.

(b)(1) *Petition to import used regulated substances for disposal by destruction.* A person must petition the relevant Agency official for the import of each individual shipment of a used regulated substance imported for purposes of destruction in order to not expend allowances. A petition is required at least 30 working days before the shipment is to leave the foreign port of export, and contain the following information:

(i) Name, commodity code, and quantity in kilograms of each regulated substance to be imported;

(ii) Name and address of the importer, the importer ID number, and the contact person's name, email address, and phone number;

(iii) Name and address of the consignee and the contact person's name, email address, and phone number;

(iv) Name and address of any intermediary who will hold regulated substances imported for destruction, and the contact person's name, email address, and phone number;

(v) Source country;

(vi) An English translation, if needed, of the export license (or application for an export license) from the appropriate government agency in the country of export;

(vii) The U.S. port of entry for the import, the expected date of import, and the vessel transporting the material. If at the time of submitting the petition the importer does not know this information, and the importer receives a non-objection notice for the individual shipment in the petition, the importer is required to notify the relevant Agency official of this information prior to the entry of the individual shipment into the United States; and

(viii) Name, address, contact person, email address, and phone number of the responsible party at the destruction facility.

(2) *Review of petition to import for destruction.* (i) The relevant Agency official will initiate a review of the information submitted under paragraph (b)(1) of this section and take action within 30 working days to issue either an objection notice or a non-objection notice for the individual shipment to the person who submitted the petition.

(ii) The relevant Agency official may issue an objection notice to a petition for the following reasons:

(A) If the official determines that the information is insufficient, that is, if the petition lacks or appears to lack any of the information required under paragraph (b)(1) of this section or other information that may be requested during the review of the petition necessary to verify that the regulated substance is used;

(B) If the official determines that any portion of the petition contains false or misleading information, or the official has information from other U.S. or foreign government agencies indicating that the petition contains false or misleading information;

(C) If allowing the import of the used regulated substance would run counter to government restrictions from either the country of recovery or export regarding regulated substances;

(D) If destruction capacity is installed or is being installed for that specific regulated substance in the country of recovery or country of export and the capacity is funded in full or in part through the Multilateral Fund to the Montreal Protocol.

(iii) Within 10 working days after receipt of an objection notice with the basis being ''insufficient information,'' the importer may re-petition the official. If no re-petition is taken by the tenth working day after the date on the objection notice, the objection shall become final. Only one re-petition will be accepted for any petition received by EPA.

(iv) Any information contained in the re-petition which is inconsistent with the original petition must be identified and a description of the reason for the inconsistency must accompany the re-petition.

(v) In cases where the relevant Agency official does not object to the petition, the official will issue a non-objection notice.

(vi) If, following EPA's issuance of a non-objection notice, new information is brought to EPA's attention which shows that the non-objection notice was issued based on false information, then EPA has the right to:

(A) Revoke the non-objection notice;

(B) Pursue all means to ensure that the regulated substance is not imported into the United States; and

(C) Take appropriate enforcement actions including but not limited to seizing regulated substances that have already been imported into the United States and revoking or withholding allowances.

(3) *Timing.* An individual shipment authorized through a non-objection notice must be destroyed within sixty days of import.

(4) *Quantity.* An individual shipment authorized through a non-objection notice may not exceed the quantity (in MTEVe) of the regulated substance stated in the non-objection notice.

(5) *Proof of destruction.* For each individual shipment of a used regulated substance imported with the intent to destroy that substance for which EPA issues a non-objection notice, an importer must submit to the Administrator records indicating that the substance has been destroyed within 45 days after destruction of the regulated substance(s).

(6) *Recordkeeping.* The person receiving the non-objection notice from the relevant Agency official for a petition to import used regulated substances must maintain the following records for five years:

(i) A copy of the petition;

(ii) The EPA non-objection notice;

(iii) The bill of lading for the import;

(iv) The U.S. Customs entry number; and

(v) Records indicating that the substance has been destroyed.

§ 84.27 Controlling Emissions of HFC–23.

(a) No later than October 1, 2022, as compared to the amount of chemical intentionally produced on a facility line, no more than 0.1 percent of HFC–23 created on the line may be emitted.

(1) *Requests for extension.* The producer may submit a request to the relevant Agency official to request a six-month extension, with a possibility of one additional six-month extension, to meeting the 0.1 percent HCFC–23 limit in § 82.15(a)(3). No entity may have a compliance date later than October 1, 2023.

(2) *Timing of request.* The extension request must be submitted to EPA no later than August 1, 2022 for a first-time extension or February 1, 2023 for a second extension.

(3) *Content of request.* The extension request must contain the following information:

(i) Name of the facility submitting the request; contact information for a person at the facility; and the address of the facility.

(ii) A description of the specific actions the facility has taken to improve their HFC–23 control, capture, and destruction; the facility's plans to meet the 0.1% HFC–23 limit including the expected date by which the equipment will be installed and operating; and verification that the facility has met all applicable reporting requirements.

(4) *Review of request.* Starting on the first working day following receipt by the relevant Agency official of a complete request for extension, the official will initiate review of the information submitted under paragraph (a)(3) of this section and take action within 30 working days. Any grant of a compliance deferral will be made public.

(b) Captured HFC–23 is permitted to be destroyed at a different facility than where it is produced. In such instances, the transportation to and destruction at the different facility will be incorporated into calculations of whether the producer meets the 0.1 percent standard outlined in paragraph (a) of this section.

§ 84.29 Destruction of regulated substances.

(a) The following technologies are approved by the Administrator for destruction of all regulated substances except for HFC–23:

(1) Cement kiln;

(2) Gaseous/fume oxidation;

(3) Liquid injection incineration;

(4) Porous thermal reactor;

(5) Reactor cracking;

(6) Rotary kiln incineration;

(7) Argon plasma arc;

(8) Nitrogen plasma arc;

(9) Portable plasma arc;

(10) Chemical reaction with hydrogen and carbon dioxide;

(11) Gas phase catalytic de-halogenation; and

(12) Superheated steam reactor.

(b) The following technologies are approved by the Administrator for destruction of HFC–23:

(1) Gaseous/fume oxidation;

(2) Liquid injection incineration;

(3) Reactor cracking;

(4) Rotary kiln incineration;

(5) Argon plasma arc;

(6) Nitrogen plasma arc;

(7) Chemical reaction with hydrogen and carbon dioxide; and

(8) Superheated steam reactor.

§ 84.31 Recordkeeping and reporting.

(a) *Recordkeeping and reporting.* Any person who produces, imports, exports, transforms, uses as a process agent, destroys, or reclaims regulated substances must comply with the following recordkeeping and reporting requirements:

(1) Reports required by this § 84.31 must be submitted within 45 days of the end of the applicable reporting period, unless otherwise specified.

(2) Reports petitions, and any related supporting documents must be submitted electronically in a format specified by the Administrator.

(3) Records and copies of reports required by this section must be retained for five years.

(4) Quantities of regulated substances must be stated in terms of kilograms unless otherwise specified.

(5) Reports are no longer required if an entity notifies the Administrator that they have permanently ceased production, import, export, destruction, transformation, use as a process agent, or reclamation of regulated substance.

(b) *Producers.* Persons (''producers'') who produce regulated substances must comply with the following recordkeeping and reporting requirements:

(1) *One-time report.* Within 120 days of January 1, 2022, or within 120 days of the date that a producer first produces a regulated substance, whichever is later, every producer must submit to the Administrator a report describing:

(i) The method by which the producer in practice measures daily quantities of regulated substances produced;

(ii) Conversion factors by which the daily records as currently maintained can be converted into kilograms of regulated substances produced, including any constants or assumptions used in making those calculations (*e.g.,* tank specifications, ambient temperature or pressure, density of the regulated substance);

(iii) Internal accounting procedures for determining plant-wide production;

(iv) The quantity of any fugitive losses accounted for in the production figures;

(v) A list of any coproducts, byproducts, or emissions from the production line of any regulated substance that are other regulated substances, ozone-depleting substances listed in 40 CFR part 82, subpart A, or hazardous air pollutants initially identified in Section 112 of the Clean Air Act, and as revised through rulemaking and codified in 40 CFR 63.

(vi) The estimated percent efficiency of the production process for the regulated substance, and

(vii) A description of any processes that use a regulated substance as a process agent. Within 60 days of any change in the measurement procedures or the information specified in the above report, the producer must submit a report specifying the revised data or procedures to the relevant Agency official.

(2) *Reporting—producers.* Within 45 days after the end of each quarter, each producer of a regulated substance must provide to the relevant Agency official a report containing the following information for each facility:

(i) The quantity (in kilograms) of production of each regulated substance used in processes resulting in their transformation by the producer and the quantity (in kilograms) intended for transformation by a second party;

(ii) The quantity (in kilograms) of production of each regulated substance used in processes resulting in their destruction by the producer and the quantity (in kilograms) intended for destruction by a second party;

(iii) The quantity (in kilograms) of production of each regulated substance used as a process agent by the producer and the quantity (in kilograms) intended for use as a process agent by a second party;

(iv) The expended allowances for each regulated substance and the

quantity (in kilograms) of each regulated substance produced;

(v) The quantity (in kilograms) of regulated substances sold or transferred during the quarter to a person other than the producer for use in processes resulting in their transformation, destruction, or use as a process agent;

(vi) The quantity (in kilograms) of regulated substances produced by the producer that were exported by the producer or by other U.S. companies to a foreign country, that will be transformed or destroyed and therefore were not produced expending production or consumption allowances;

(vii) For transformation in the United States or by a person in a foreign country, one copy of a transformation verification from the transformer for the specific regulated substance(s) and a list of additional quantities shipped to that same transformer for the quarter;

(viii) For destruction in the United States or by a person in a foreign country of a regulated substance that was produced without allowances, one copy of a destruction verification for each particular destroyer confirming it destroyed the same regulated substance, and a list of additional quantities shipped to that same destroyer for the quarter;

(ix) A list of the application-specific allowance holders from whom orders were placed, and the quantity (in kilograms) of specific regulated substances produced for those listed applications; and

(x) For the fourth quarter report only, the quantity of each regulated substance held in inventory on December 31.

(3) *Recordkeeping—producers.* Every producer of a regulated substance must maintain the following records:

(i) Dated records of the quantity (in kilograms) of each regulated substance produced at each facility;

(ii) Dated records of the quantity (in kilograms) of regulated substances produced for use in processes that result in their transformation, destruction, or as a process agent;

(iii) Dated records of the quantity (in kilograms) of regulated substances sold for use in processes that result in their transformation, destruction, or as a process agent;

(iv) Dated records of the quantity (in kilograms) of regulated substances produced by expending conferred application-specific allowances and quantity sold for use in each listed application;

(v) Copies of invoices or receipts documenting sale of regulated substances for use in processes that result in their transformation, destruction, or as a process agent;

(vi) Dated records of the quantity (in kilograms) of each regulated substance used at each facility as feedstocks or destroyed in the manufacture of a regulated substance or in the manufacture of any other substance, and any regulated substance introduced into the production process of the same regulated substance at each facility;

(vii) Dated records of the quantity (in kilograms) of each regulated substance used at each facility as a process agent;

(viii) Dated records identifying the quantity (in kilograms) of each chemical not a regulated substance produced within each facility also producing one or more regulated substances;

(ix) Dated records of the quantity (in kilograms) of raw materials and feedstock chemicals used at each facility for the production of regulated substances;

(x) Dated records of the shipments of each regulated substance produced at each plant;

(xi) Dated records of batch tests of regulated substances packaged for sale or distribution;

(xii) The quantity (in kilograms) of regulated substances, the date received, and names and addresses of the source of used materials containing regulated substances which are recycled or reclaimed at each plant;

(xiii) Records of the date, the regulated substance, and the estimated quantity of any spill or release of a regulated substance that equals or exceeds 100 pounds;

(xiv) The transformation verification in the case of transformation, or the destruction verification in the case of destruction, showing that the purchaser or recipient of a regulated substance, in the United States or in another foreign country, certifies the intent to either transform or destroy the regulated substance, or sell the regulated substance for transformation or destruction in cases when allowances were not expended; and

(xv) The certifications from application-specific allowance holders stating that the regulated substances were purchased solely for an application listed in § 84.5(c)(2) and will not be resold for use in a different application or used in any other manufacturing process;

(4) *Additional Requirements: Producers of HFC–23.* (i) Each producer of HFC–23 must include the following additional information in their one-time report:

(A) Information on the capacity to produce the intended chemical on the line on which HFC–23 is produced;

(B) Description of what is being done at the facility to control the creation of HFC–23 and its emissions;

(C) Identification of approved destruction technology and its location intended for use for HFC–23 destruction;

(D) A copy of the destruction removal efficiency report associated with the destruction technology;

(ii) Each producer of HFC–23 must include the following additional information in their fourth quarter report:

(A) Annual facility level data on HFC–23 in metric tons on: Emissions; generated; generated and captured; generated and captured for feedstock use in the United States; generated and captured for destruction; used for feedstock without prior capture; and destroyed without prior capture.

(B) [Reserved]

(iii) If captured HFC–23 is destroyed in a subsequent control period, producers must submit records to EPA indicating the HFC–23 has been destroyed within 45 days after destruction occurs.

(iv) In developing any required report, each producer of HFC–23 must abide by the following monitoring and quality assurance and control provisions:

(A) To calculate the quantities of HFC–23 generated and captured for any use, generated and captured for destruction, used for feedstock without prior capture, and destroyed without prior capture, facilities shall comply with the monitoring methods and quality assurance and control requirements set forth at 40 CFR 98.414 and the calculation methods set forth at 40 CFR 98.413, except 40 CFR 98.414(p) shall not apply.

(B) To calculate the quantity of HFC–23 emitted, facilities shall comply with the monitoring methods and quality assurance and control requirements set forth at 40 CFR 98.124 and the calculation methods set forth at 40 CFR 98.123.

(5) *Agency assumption*—For any person who fails to maintain the records required by this paragraph, or to submit the report required by this paragraph, EPA may assume that the person has produced at full capacity during the period for which records were not kept.

(c) *Importers.* Persons (''importers'') who import regulated substances must comply with the following recordkeeping and reporting requirements:

(1) *Reporting—importers.* For each quarter, an importer of a regulated substance must submit to the relevant Agency official a report containing the following information:

(i) Summaries of the records required in paragraphs (c)(2)(i) through (xvi) of this section for the previous quarter;

(ii) The total quantity (in kilograms) imported of each regulated substance for that quarter;

(iii) The commodity code for the regulated substances or blends imported;

(iv) A list of the application-specific allowance holders from whom orders were placed, number of application-specific allowances conferred, and the quantity (in kilograms) of specific regulated substances imported for those listed applications;

(v) The quantity (in kilograms) of regulated substances imported for use in processes resulting in their transformation or destruction;

(vi) The quantity (in kilograms) of regulated substances sold or transferred during that quarter to each person for use in processes resulting in their transformation or destruction;

(vii) The transformation verifications showing that the purchaser or recipient of imported regulated substances intends to transform those substances or destruction verifications showing that the purchaser or recipient intends to destroy the regulated substances; and

(viii) For the fourth quarter report only, the quantity of each regulated substance held in inventory on December 31.

(2) *Recordkeeping—importers.* An importer of a regulated substance must maintain the following records:

(i) The quantity (in kilograms) of each regulated substance imported, either alone or in mixtures, including the percentage of each mixture which consists of a regulated substance;

(ii) The quantity (in kilograms) of used regulated substances imported for destruction under the process described in § 84.25(b);

(iii) The quantity (in kilograms) of regulated substances imported for use in processes resulting in their transformation or destruction;

(iv) The quantity (in kilograms) of regulated substances imported and sold for use in processes that result in their transformation or destruction;

(v) The date on which the regulated substances were imported;

(vi) The port of entry through which the regulated substances passed;

(vii) The country from which the imported regulated substances were imported;

(viii) The commodity code for the regulated substances imported;

(ix) The importer number for the shipment;

(x) A copy of the bill of lading for the import;

(xi) The invoice for the import;

(xii) The U.S. Customs entry number;

(xiii) Dated records documenting the sale or transfer of regulated substances for use in processes resulting in their transformation or destruction;

(xiv) Copies of transformation verifications or destruction verifications indicating that the regulated substances will be transformed or destroyed;

(xv) Dated records of the quantity of regulated substances imported for an application listed at § 84.5(c)(2);

(xvi) The certifications from application-specific allowance holders stating that the regulated substances were purchased solely for an application listed in § 84.5(c)(2) and will not be resold for use in a different application or used in any other manufacturing process; and

(xvii) Dated records of batch tests of regulated substances packaged for sale or distribution; and

(3) *Transhipments.* (i) A person must notify the relevant Agency official of each individual shipment of a regulated substance that is to be transhipped through the United States. The notification is required at least 30 working days before the shipment is to leave the foreign port of export, and contain the following information:

(A) Name, commodity code, and quantity in kilograms of each regulated substance to be transhipped;

(B) Name and address of the importer, the importer ID number, and the contact person's name, email address, and phone number;

(C) Source country; and

(D) The U.S. port of entry, the expected date of entry, and the vessel transporting the material. If at the time of submitting the petition the importer does not know this information, the importer is required to notify the relevant Agency official of this information prior to the entry of the individual shipment into the United States.

(ii) The person in paragraph (c)(3)(i) of this section must notify the relevant Agency official of each individual shipment of a regulated substance that is to be transhipped when it departs the United States. The notification is required at least 30 working days before the shipment leaves the port in the United States, and contain the following information:

(A) Name, commodity code, and quantity in kilograms of each regulated substance to be transhipped;

(B) Name and address of the importer, the importer ID number, and the contact person's name, email address, and phone number; and

(C) Date of departure, name of vessel.

(iii) Any person who transhipps a regulated substance must maintain records that indicate:

(A) That the regulated substance shipment originated in a foreign country;

(B) That the regulated substance shipment is destined for another foreign country; and

(C) That the regulated substance shipment will not enter interstate commerce within the United States.

(4) *Additional recordkeeping requirements—importers of used regulated substances for destruction.* A person receiving a non-objection notice from the relevant Agency official to import used regulated substances for destruction must maintain the following records:

(i) A copy of the petition to import for destruction;

(ii) The EPA non-objection notice;

(iii) A copy of the export license, export license application, or official communication from the appropriate government agency in the country of export;

(iv) An English translation of the document in paragraph (c)(4)(iii) of this section.

(v) U.S. Customs entry documents for the import that must include the commodity codes;

(vi) The date, amount, and name of the regulated substances sent for destruction, per shipment;

(vii) An invoice from the destruction facility verifying the shipment was received; and

(viii) Records from the destruction facility indicating that the substance has been destroyed.

(5) *Recordkeeping requirements—aggregators.* A person aggregating a regulated substance prior to destruction must:

(i) Maintain transactional records that include the name and address of the entity from whom they received the regulated substance imported for destruction;

(ii) Maintain transactional records that include the name and address of the entity to whom they sent the regulated substance imported for destruction;

(iii) Maintain records that include the date and quantity of the imported regulated substance received for destruction;

(iv) Maintain records that include the date and quantity of the imported regulated substance sent for destruction; and

(v) If the person is the final aggregator of such a regulated substance before the material is destroyed, maintain a copy of records indicating that the substance has been destroyed.

(d) *Exporters.* Persons (''exporters'') who export regulated substances must comply with the following reporting requirements:

(1) *Reporting requirements—exporters.* For any exports of regulated substances not reported under paragraph (b)(2) of this section, each exporter who exported a regulated substance must submit to the relevant Agency official the following information within 45 days after the end of each quarter in which the unreported exports left the United States:

(i) The names and addresses of the exporter and the recipient of the exports;

(ii) The exporter's Employer Identification Number;

(iii) The quantity of each specific regulated substance exported, including the quantity of regulated substance that is used, reclaimed, or recycled;

(iv) The date on which, and the port from which, the regulated substances were exported from the United States or its territories;

(v) The country to which the regulated substances were exported;

(vi) The commodity code for the regulated substances shipped;

(vii) For persons exporting for transformation or destruction of the regulated substance, the invoice or sales agreement containing language similar to the transformation verifications that importers use, or destruction verifications showing that the purchaser or recipient intends to destroy the regulated substances; and

(viii) For the fourth quarter report only, the quantity of each regulated substance held in inventory on December 31.

(2) *Used regulated substances.* Any exporter of used regulated substances must indicate on the bill of lading or invoice that the regulated substance is used.

(e) *Second-party transformation and destruction.* Any person who transforms or destroys regulated substances must comply with the following recordkeeping and reporting requirements:

(1) *Reporting—second-party transformation and destruction.* Any person who transforms or destroys regulated substances and who has submitted a transformation verification ((paragraph (e)(3) of this section) or a destruction verification (paragraph (e)(4) of this section) to the producer or importer of the regulated substances, must report the following for each facility:

(i) The names and quantities (in kilograms) of the regulated substances transformed for each calendar year within 45 days after the end of that year; and

(ii) The names and quantities (in kilograms) of the regulated substances destroyed for each calendar year within 45 days after the end of that year.

(2) *Recordkeeping—second-party transformation and destruction.* Any person who transforms or destroys regulated substances produced or imported by another person must maintain the following:

(i) Copies of the invoices or receipts documenting the sale or transfer of the regulated substances to the person;

(ii) Records identifying the producer or importer of the regulated substances received by the person;

(iii) Dated records of inventories of regulated substances at each plant on the first day of each quarter;

(iv) Dated records of the quantity (in kilograms) of each regulated substance transformed or destroyed;

(v) In the case where regulated substances were purchased or transferred for transformation purposes, a copy of the person's transformation verification;

(vi) Dated records of the names, commercial use, and quantities (in kilograms) of the resulting chemical(s) when the regulated substances are transformed; and

(vii) Dated records of shipments to purchasers of the resulting chemical(s) when the regulated substances are transformed.

(viii) In the case where regulated substances were purchased or transferred for destruction purposes, a copy of the person's destruction verification.

(3) *Transformation verifications.* Any person who purchases regulated substances for purposes of transformation must provide the producer or importer of the regulated substances with a transformation verification that the regulated substances are to be used in processes that result in their transformation. The verification can only be valid for up to 60 days. The transformation verification shall include the following:

(i) Identity and address of the person intending to transform the regulated substances;

(ii) The quantity (in kilograms) of regulated substances intended for transformation;

(iii) Identity of shipments by purchase order number(s), purchaser account number(s), location(s), or other means of identification;

(iv) Period of time over which the person intends to transform the regulated substances; and

(v) Signature and title of the verifying person.

(4) *Destruction verifications.* Any person who purchases or receives and subsequently destroys regulated substances that were originally produced or imported without expending allowances shall provide the producer or importer from whom it purchased or received the regulated substances with a verification that the regulated substances will be used in processes that result in their destruction. The destruction verification shall include the following:

(i) Identity and address of the person intending to destroy regulated substances;

(ii) The quantity (in kilograms) of regulated substances intended for destruction;

(iii) Identity of shipments by purchase order number(s), purchaser account number(s), location(s), or other means of identification;

(iv) The destruction efficiency at which such substances will be destroyed;

(v) Period of time over which the person intends to destroy regulated substances; and

(vi) Signature and title of the verifying person.

(5) *Transformation reporting—one time report.* Any person who transforms a regulated substance must provide a one-time report containing the following information:

(i) A description of the transformation use;

(ii) A description of all technologies and actions taken to minimize emissions of regulated substances;

(iii) The name of the product manufactured in the process;

(iv) A list of any coproducts, byproducts, or emissions from the production line of any regulated substance that are other regulated substances, ozone-depleting substances listed in 40 CFR part 82, subpart A, or hazardous air pollutants initially identified in Section 112 of the Clean Air Act, and as revised through rulemaking and codified in 40 CFR part 63;

(v) The estimated annual fugitive emissions by chemical associated with the transformation process;

(vi) The anticipated ratio of regulated substance used for transformation to the amount of end product manufactured; and

(vii) A mass balance equation of the transformation reaction.

(f) *All destruction facilities*—(1) *Destruction—one-time report.* Within 120 days of January 1, 2022, or within 120 days of the date that an entity first destroys a regulated substance, whichever is later, every person who

destroys regulated substances, whether in a process for destruction or for disposal of a used substance, shall provide EPA with a report containing the following information:

(i) The destruction unit's destruction efficiency;

(ii) The methods used to record the volume destroyed;

(iii) The methods used to determine destruction efficiency;

(iv) The name of other relevant federal or state regulations that may apply to the destruction process; and

(v) Any changes to the information in this paragraph must be reflected in a revision to be submitted to EPA within 60 days of the change(s).

(2) *Proof of destruction.* Any person who destroys used regulated substances for disposal of that substance, shall provide the importer or aggregator with a record indicating the substance was destroyed within 30 days of the date of destruction.

(g) *Process agents*—(1) *Reporting—one time report.* Any person who uses a regulated substance as a process agent must provide a one-time report containing the following information:

(i) A description of the process agent use which includes details of the percentages of process agent retained within the process, recovered after the process, and emitted or entrained in the final product;

(ii) A description of all technologies and actions taken to minimize emissions of regulated substances;

(iii) The name of the product and byproducts manufactured in the process; and

(iv) The anticipated ratio of process agent emissions to end product manufactured.

(2) *Annual report.* Any person who uses a regulated substance as a process agent must provide an annual report containing the following information:

(i) Contact information including email address and phone number for a primary and alternate contact person;

(ii) The amount of regulated substance used as a process agent;

(iii) The amount of product and the amount of byproducts manufactured (including amounts eventually destroyed or used as feedstock);

(iv) The stack point source emissions; and

(v) A description of any HFC emission reduction actions planned or currently under investigation.

(i) *Holders of application-specific allowances*—(1) *Reporting.* Any person allocated application-specific allowances must submit to the relevant Agency official a report containing the following information by July 31 and January 31 of each year:

(i) The quantity (in kilograms) of each regulated substance that was used for their application during previous six months;

(ii) The quantity of regulated substances acquired through conferring allowances that were imported during the previous six months;

(iii) The quantity of regulated substances acquired through conferring allowances that were produced domestically during the previous six months;

(iv) The companies to which application-specific allowances were conferred;

(v) The quantity of regulated substances purchased without expending application-specific allowances during the previous six months (*i.e.,* from the open market);

(vi) The quantity of inventory of each regulated substance held by the reporting company or held under contract by another company for the reporting company's use on the last day of the previous six-month period;

(vii) The quantity of each regulated substance contained in exported products during the previous six months; and

(viii) The quantity of each regulated substance that was destroyed or recycled during the previous six months.

(2) *Application.* In addition to the information in paragraph (i)(1) of this section, the report due by July 31 must include a request for application-specific allowances for the next calendar year which would include the following:

(i) Total quantity (in kilograms) of all regulated substances acquired and used in the previous three years;

(ii) Information on suppliers;

(iii) whether HFCs were acquired through domestic production or import;

(iv) Whether HFCs were acquired through conferring allowances or from the general market; quantities held in inventory; and

(v) A description of plans to transition to regulated substances with a lower exchange value or alternatives to regulated substances.

(3) *Recordkeeping.* Entities allocated application-specific allowances must maintain the following records for five years:

(i) Records necessary to develop the biannual reports;

(ii) A copy of certifications provided to producers and/or importers when conferring allowances;

(iii) A copy of the annual submission requesting application-specific allowances;

(iv) Invoice and order records related to the purchase of regulated substances;

(v) Records related to the transfer of allocation-specific allowances to other entities; and

(vi) Records documenting the use of regulated substances.

(j) *Reclaimers.* Persons (''reclaimers'') who reclaim regulated substances must comply with the following recordkeeping and reporting requirements:

(1) *One time report.* By February 14, 2022, any person who reclaims a regulated substance must provide a one-time report containing the following information:

(i) The quantity of each regulated substance held in inventory as of December 31, 2021;

(ii) The name of the laboratory that conducts the batch testing and a signed statement from that laboratory confirming there is an ongoing business relationship with the reclaimer,

(iii) The number of batches tested for each regulated substance or blend containing a regulated substance in the prior year,

(iv) The number of batches that did not meet the specifications in appendix A of 40 CFR part 82, subpart F in the prior year.

(2) *Quarterly Reporting.* For each quarter, a reclaimer of a regulated substance must submit to the relevant Agency official a report containing the following information:

(i) The quantity of material (the combined mass of regulated substance and contaminants) by regulated substance sent to them for reclamation, the total mass of each regulated substance, and the total mass of waste products.

(ii) The quantity of each regulated substance held in inventory onsite at the end of each quarter broken out by recovered, reclaimed, and virgin.

(3) *Recordkeeping.* (i) Reclaimers must maintain records, by batch, of the results of the analysis conducted to verify that reclaimed regulated substance meets the necessary specifications in Appendix A to 40 CFR part 82, subpart F, based on AHRI Standard 700–2016. Such records must be maintained for five years.

(ii) Reclaimers must maintain records of the names and addresses of persons sending them material for reclamation and the quantity of the material (the combined mass of regulated substance and contaminants) by regulated substance sent to them for reclamation. Such records must be maintained on a transactional basis for five years.

§ 84.33 Auditing of recordkeeping and reporting.

(a) Any person receiving production allowances, consumption allowances, or

application-specific allowances, as well as any person who exports or reclaims a regulated substance must arrange for third-party auditing of reports submitted to the EPA.

(b) Auditors must review the inputs the regulated entities used to develop quarterly and annual reports including, as appropriate:

(1) The amount of production and consumption allowances allocated;

(2) The amount, timing, and parties to allowance transfers, and the associated documentation and offset amount;

(3) The amount of regulated substances imported, exported, produced, destroyed, transformed, or reclaimed;

(4) For allocation-specific allowances, the amounts of allowances conferred, regulated substances purchased, the specific application for which the regulated substances were provided, and the names, telephone numbers, and email addresses for contact persons for the recipient companies;

(5) The date and the port from which regulated substances were imported or exported;

(6) A copy of the bill of lading and the invoice indicating the quantity of regulated substances imported or exported;

(7) Relevant commodity codes;

(8) The number and type of railcars, ISO tanks, individual cylinders or drums, small cans, or other containers used to store and transport regulated substances;

(9) List of certification identifications used; and

(10) Other information deemed relevant.

(c) An auditor must meet the following requirements:

(1) The auditor must be a certified public accountant, or firm of such accountants, that is independent of the regulated person. Such an auditor must comply with the AICPA Code of Professional Conduct, including its independence requirements, the AICPA Statements on Quality Control Standards (SQCS) No. 8, A Firm's System of Quality Control (both incorporated by reference in 40 CFR1090.95), and applicable rules of state boards of public accountancy. Such an auditor must also perform the attestation engagement in accordance with the AICPA Statements on Standards for Attestation Engagements (SSAE) No. 18, Attestation Standards: Clarification and Recodification, (incorporated by reference in 40 CFR 1090.95).

(2) The auditor must meet the independence requirements in paragraph (f) of this section.

(3) Any auditor suspended or debarred under 2 CFR part 1532 or 48 CFR part 9, subpart 9.4, is not qualified to perform attestation engagements under this section.

(d) All reports required under this paragraph must be signed and certified as meeting all the applicable requirements of this subpart by the independent third-party auditor or a responsible corporate officer of the independent third-party auditor.

(e) The following provisions apply to each audit performed under this section:

(1) The auditor must prepare a report identifying the applicable procedures specified in this section along with the auditor's corresponding findings for each procedure. The auditor must submit the report electronically to EPA by May 31 of the year following the compliance period.

(2) The auditor must identify any instances where compared values do not agree or where specified values do not meet applicable requirements under this part.

(3) Laboratory analysis refers to the original test result for each analysis of a product's properties.

(4) For a reclaimer that relies on a third-party laboratory for batch testing, the laboratory analysis consists of the results provided by the third-party laboratory.

(f) The independent third party, their contractors, subcontractors, and their organizations must be independent of the regulated party. All the criteria listed in paragraphs (a)(1) and (2) of this section must be met by each person involved in the specified activities in this section that the independent third party is hired to perform for a regulated party.

(1) *Employment criteria.* No person employed by an independent third party, including contractor and subcontractor personnel, who is involved in a specified activity performed by the independent third party under the provisions of this section, may be employed, currently or previously, by the regulated party for any duration within the 12 months preceding the date when the regulated party hired the independent third party to provide services under this section.

(2) *Financial criteria.* (i) The third-party's personnel, the third-party's organization, or any organization or individual that may be contracted or subcontracted by the third party must meet all the following requirements:

(A) Have received no more than one-quarter of their revenue from the regulated party during the year prior to the date of hire of the third party by the regulated party for any purpose.

(B) Have no interest in the regulated party's business. Income received from the third party to perform specified activities under this section is excepted.

(C) Not receive compensation for any specified activity in this section that is dependent on the outcome of the specified activity.

(ii) The regulated party must be free from any interest in the third-party's business.

Subpart B—[RESERVED]

Appendix A to Part 84—Regulated Substances

HFCs Listed as Regulated Substances in the AIM Act [1]

HFC	Chemical formula	Exchange value
HFC–134	CHF_2CHF_2	1,100
HFC–134a	CH_2FCF_3	1,430
HFC–143	CH_2FCHF_2	353
HFC–245fa	$CHF_2CH_2CF_3$	1,030
HFC–365mfc	$CF_3CH_2CF_2CH_3$	794
HFC–227ea	CF_3CHFCF_3	3,220
HFC–236cb	$CH_2FCF_2CF_3$	1,340
HFC–236ea	CHF_2CHFCF_3	1,370
HFC–236fa	CF_3CH2CF_3	9,810
HFC–245ca	$CH_2FCF_2CHF_2$	693
HFC–43–10mee	$CF_3CHFCHFCF_2CF_3$	1,640
HFC–32	CH_2F_2	675
HFC–125	CHF_2CF_3	3,500
HFC–143a	CH_3CF_3	4,470
HFC–41	CH_3F	92
HFC–152	CH_2FCH_2F	53
HFC–152a	CH_3CHF_2	124
HFC–23	CHF_3	14,800

[1] This table includes all isomers of the substances above, regardless of whether the isomer is explicitly listed on its own.

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Part III

Environmental Protection Agency

40 CFR Part 136
Clean Water Act Methods Update Rule for the Analysis of Effluent; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[EPA–HQ–OW–2018–0826; FRL–10021–59–OW]

RIN 2040–AF84

Clean Water Act Methods Update Rule for the Analysis of Effluent

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing changes to its test procedures required to be used by industries and municipalities when analyzing the chemical, physical, and biological properties of wastewater and other environmental samples for reporting under EPA's National Pollutant Discharge Elimination System (NPDES) permit program. The Clean Water Act (CWA) requires EPA to promulgate these test procedures (analytical methods) for analysis of pollutants. EPA anticipates that these changes will provide increased flexibility for the regulated community in meeting monitoring requirements while improving data quality. In addition, this update to the CWA methods is incorporating technological advances in analytical technology.

DATES: This final rule is effective July 19, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2018–0826. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Meghan Hessenauer, Engineering and Analysis Division (4303T), Office of Water, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460–0001; telephone: 202–566–1040; email: *Hessenauer.Meghan@epa.gov.*

SUPPLEMENTARY INFORMATION:

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II. Overview
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I. General Information

A. Does this action apply to me?

Entities potentially affected by the requirements of this action include:

Category	Examples of potentially affected entities
State, Territorial, and Indian Tribal Governments.	States, territories, and tribes authorized to administer the National Pollutant Discharge Elimination System (NPDES) permitting program; states, territories, and tribes providing certification under CWA section 401; state, territorial, and tribal-owned facilities that must conduct monitoring to comply with NPDES permits.
Industry	Facilities that must conduct monitoring to comply with NPDES permits.
Municipalities	Publicly Owned Treatment Works (POTWs) or other municipality-owned facilities that must conduct monitoring to comply with NPDES permits.

This table is not exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists types of entities that EPA is now aware of that could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability language at 40 CFR 122.1 (NPDES purpose and scope), 40 CFR 136.1 (NPDES permits and CWA) and 40 CFR 403.1 (pretreatment standards purpose and applicability). If you have questions regarding the applicability of this action to a particular entity, consult the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Overview

This preamble describes the reasons for the final rule; the legal authority for the final rule; a summary of the changes and clarifications; and explanation of the abbreviations and acronyms used in this document.

Abbreviations and Acronyms Used in the Preamble and Rule Text

2-CEVE: 2-Chloroethylvinyl ether
AA: Atomic Absorption
ADMI: American Dye Manufacturers Institute
ASTM: ASTM International [1]
ATP: Alternate Test Procedure
BHI: Brain heart infusion
BOD_5: 5-day Biochemical Oxygen Demand
CAS: Chemical Abstract Services
CATC: Cyanide Amenable to Chlorination
CBOD—Carbonaceous Biochemical Oxygen Demand
CCB: Continuing calibration blank
CCV: Continuing calibration verification
CFR: Code of Federal Regulations
COD: Chemical Oxygen Demand
CWA: Clean Water Act
EC-MUG: EC broth with 4-methylumbelliferyl-β-D-glucuronide
EDTA: Ethylenediaminetetraacetic acid
ELAB: Environmental Laboratory Advisory Board
EPA: Environmental Protection Agency
FLAA: Flame Atomic Absorption Spectroscopy
GC: Gas Chromatography
GFAA: Graphite Furnace Atomic Absorption Spectroscopy
ICP/AES: Inductively Coupled Plasma-Atomic Emission Spectroscopy
ICP/MS: Inductively Coupled Plasma-Mass Spectrometry
ILI: Independent Laboratories Institute
IPR: Initial Precision and Recovery
LCS: Laboratory Control Sample
MDL: Method Detection Limit
MF: Membrane Filtration
$MgCl_2$: Magnesium Chloride
MPN: Most Probable Number
MS/MSD: Matrix Spike/Matrix Spike Duplicate
MS: Mass Spectrometry
NA-MUG: Nutrient Agar with 4-methylumbelliferyl-β-D-glucuronide
NECi: A shortened name used by the Nitrate Elimination Company, Inc.
NPDES: National Pollutant Discharge Elimination System
NTTAA: National Technology Transfer and Advancement Act
OPR: Ongoing Precision and Recovery
QC: Quality Control
STGFAA: Stabilized Temperature Graphite Furnace Atomic Absorption
SW: Solid Waste
TKN: Total Kjeldahl Nitrogen
TOC: Total Organic Carbon
USGS: United States Geological Survey
VCSB: Voluntary Consensus Standards Body

III. Changes Between the Proposed Rule and the Final Rule

EPA received 25 comments on the October 2019 proposed rule from

[1] Formerly known as the American Society for Testing and Materials (ASTM)

laboratory associations, commercial labs, state environmental agencies, and various trade associations. None of the comments opposed the promulgation of the proposed methods. Below is a breakout summarizing the comments we received.

- All commenters support finalizing this rule.
- 12 of the comment letters were outside the scope for the proposed rulemaking or requested a method modification with no underlying data to support the requested change.
- Some commenters requested that EPA modify methods developed by external stakeholders (ASTM International, USGS, etc.). However, EPA is only adopting methods as developed by voluntary consensus standard bodies. Comments requesting changes to such methods should be directed to the method developers.
- Some commenters noted typographical errors or minor inconsistencies within 40 CFR part 136 that required minor changes (*e.g.,* the wrong citation date in a footnote, methods listed in the wrong section of the 40 CFR part 136). Except as noted below, the content of the final rule is the same as that of the proposed rule.

A. Changes in Preamble

In the proposed rulemaking, EPA included in Table IA Standard Methods Method 9230D–2013 for the measurement of enterococci but did not include a discussion of this method in the preamble to the proposal. In response to comments, EPA has added a description of the method to Section IV.C of this preamble.

Similarly, while the proposal included in Table IB Standard Methods Method 5210B–2016 for the measurement of carbonaceous biochemical oxygen demand ($CBOD_5$), EPA did not discuss approving this method in the preamble to the proposal. The preamble did, however, discuss approval of this method for biochemical oxygen demand (BOD_5) and included BOD in Table IB and along with CBOD. In response to comments, EPA has included discussion and the description of the method in Section V.C of this preamble for both BOD and CBOD.

In addition, EPA has corrected a typographical error that appeared in the proposed rulemaking regarding Standard Methods Method 2540E–2015 in Section IV.C of this preamble. The correct method, Standard Methods Method 2540F–2015, is now listed in Section IV.C of this preamble.

The errata sheets for Whole Effluent Toxicity were not referenced in 40 CFR part 136. In the previous 2017 Methods Update Rule, the errata sheets were approved but not referenced. EPA did not add this to the regulatory test and was a mistake. The errata sheets are now referenced.

B. Changes to Table IB

EPA has corrected two errors in Table IB of the final rule. In the proposal, EPA listed ASTM Method D1179–16(A) in the wrong row in the Table IB entry for Fluoride. The method is a distillation step and was erroneously listed in the row for colorimetric methods. EPA has corrected Table IB in the final rule.

EPA also has corrected the publication date of the Macherey-Nagel Chemical Oxygen Demand method in Footnote 83 to Table IB. In the proposal, the publication date in the footnote was listed as 2008 and has been corrected to 2018.

C. Changes to Table II

EPA is making a number of conforming changes to the final rule in order to correct inadvertent omissions and errors.

In response to a comment that pointed out that EPA did not update Table II to capture the microbiological method changes included in Tables IA and IH, EPA has modified Table II to take account of these changes for the final rule. These changes intended to clarify and correct inadvertent omissions and errors.

A commenter pointed out that EPA did not include organic parameter #73, hexachloroethane in Table II. EPA has corrected this error that dates to the Methods Update Rule proposed in 2004. The parameter #73 has been added to the list of chlorinated hydrocarbons in Table II of the final rule.

Finally, a typographical error in Table II of the proposed rulemaking resulted in the specifications for four matrices listed under the dioxin and furan (CDDs/CDFs) entry to not be indented. This caused some confusion for commenters. EPA has ensured that Table II in the final rule appears as intended.

IV. Statutory Authority

EPA is promulgating this regulation under the authorities of sections 301(a), 304(h), and 501(a) of the CWA; 33 U.S.C. 1311(a), 1314(h), and 1361(a). Section 301(a) of the CWA prohibits the discharge of any pollutant into navigable waters unless the discharge complies with, among other provisions, an NPDES permit issued under section 402 of the CWA. Section 304(h) of the CWA requires the Administrator of EPA to ''. . . promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to [section 401 of the CWA] or permit application pursuant to [section 402 of the CWA].'' Section 501(a) of the CWA authorizes the Administrator to ''. . . prescribe such regulations as are necessary to carry out this function under [the CWA].'' EPA generally has codified its test procedure regulations (including analysis and sampling requirements) for CWA programs at 40 CFR part 136, though some requirements are codified in other parts (*e.g.,* 40 CFR chapter I, subchapters N and O).

V. Purpose and Summary of Final Rule

NPDES permits must include conditions designed to ensure compliance with the technology-based and water quality-based requirements of the CWA, including in many cases, restrictions on the quantity of specific pollutants that can be discharged as well as requirements for pollutant monitoring, measurement and reporting to NPDES authorities. Often, entities have a choice in deciding which approved test procedure they will use for a specific pollutant because EPA has approved the use of more than one method.[2]

The procedures for the analysis of pollutants required by CWA section 304(h) are a central element of the NPDES permit program. Examples of where these EPA-approved analytical methods must be used include the following: (1) Applications for NPDES permits, (2) sampling or other reports required under NPDES permits, (3) other requests for quantitative or qualitative effluent data under the NPDES regulations, (4) State CWA 401 certifications and (5) sampling and analysis required under EPA's General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR 136.1 and 40 CFR 403.12(b)(5)(v).

Periodically, EPA updates the approved methods in 40 CFR part 136. In general, the changes in this final action fall into the following categories. The first is new or revised methods published by the VCSBs or the USGS that are similar to methods previously adopted as EPA-approved methods in 40 CFR part 136. The second category is methods EPA has reviewed under the Agency's national ATP program and preliminarily concluded are appropriate for nationwide use. Lastly, EPA is finalizing certain corrections or amendments to the text and tables of 40

[2] NPDES permit regulations also specify that the approved method needs to be sufficiently sensitive. See 40 CFR 122.21 (e)(3).

CFR part 136. EPA is adopting these revisions to improve data quality, update methods to keep current with technology advances, and provide the regulated community with greater flexibility. The following paragraphs provide details on the finalized revisions.

A. Changes to 40 CFR 136.3 To Include New Versions of Previously Approved EPA Methods

EPA added the revised version of EPA Method 1623 (labeled 1623.1) to Table IH. Method 1623.1 includes updated acceptance criteria for IPR, OPR, and MS/MSD, and clarifications and revisions based on user questions and feedback about Method 1623 over the past 19 years.

B. Methods Incorporated by Reference

Currently, hundreds of methods and ATPs are incorporated by reference within 40 CFR part 136. In most cases, 40 CFR part 136 contains multiple approved methods for a single pollutant, and regulated entities often have a choice in selecting a method. This final rule contains revisions to VCSB methods that are currently incorporated by reference. Two VCSBs have made such revisions, Standard Methods and ASTM. The finalized VCSB methods are consistent with the requirements of the National Technology Transfer and Advancement Act (NTTAA), under which federal agencies use technical standards developed or adopted by the VCSBs if compliance would not be inconsistent with applicable law or otherwise impracticable (see Section V.I of this preamble). The VCSB methods are available on their respective websites (*https://www.standardmethods.org/* and *www.astm.org*) to everyone at a cost determined by the VCSB, generally from $40 to $80. Both organizations also offer memberships or subscriptions that allow unlimited access to their methods. The cost of obtaining these methods is not a significant financial burden for a discharger or environmental laboratory, making the methods reasonably available. Finally, this final rule also includes USGS methods and vendor ATPs, all of which EPA is incorporating by reference. The ATPs and USGS methods are available free of charge on their respective websites (*flowinjection.com*, *mn-net.com*, *micrologylabs.com* and *USGS.gov*), enabling EPA to conclude that the USGS methods and ATPs incorporated by reference are reasonably available.

C. Changes to 40 CFR 136.3 To Include New Versions of Approved Standard Methods Methods

EPA is approving new versions of Standard Methods methods previously included in 40 CFR part 136. The newer versions clarify the existing methods or make editorial corrections. As was the case with the previous methods update rule (82 FR 40836–40941, August 28, 2017), EPA approves and includes in 40 CFR part 136 only the most recent version of a method published by the Standard Methods Committee. EPA is listing only one version of the method with the year of publication designated by the last four digits in the method number (*e.g.,* SM method 3111 B–2011). The date indicates the date of the specific revision to the method. This allows use of a specific method in any edition of the hard copy publication of *Standard Methods for the Examination of Water & Wastewater* that includes a method with the same method number and year of publication.

The finalized revisions to Standard Methods methods previously approved in 40 CFR part 136 will not affect the performance of the method. The following identifies new versions of previously approved Standard Methods methods that EPA included. Each entry contains the Standard Methods number and date, the parameter, and a brief description of the analytical method. The methods listed below are organized according to the table at 40 CFR part 136 in which they appear.

EPA finalized the following changes to Tables IA and IH at 40 CFR part 136:

1. Standard Methods Method 9221 (B, E, F)-2014: Method 9221B–2014 Coliform (total); analyzes for total coliforms in non-potable waters using LTB, all presumptive growth LTB tubes are confirmed in BGLB. Method 9221E–2014 Coliform (fecal); analyzes all presumptive growth LTB tubes for fecal coliform using EC broth. Method 9221F–2014 *E. coli;* analyzes all presumptive growth LTB tubes for *E. coli* using EC–MUG. The number of positive tubes (BGLB, EC broth or EC–MUG) is used to determine the MPN. In response to public comment, EPA is clarifying that Method 9221E–2014 is approved for testing sewage sludge. In Table IA.1, EPA changed Footnote 11 from 'approved' to 'recommended' in the proposed rulemaking because the 2017 Methods Update Rule erroneously changed the footnote from 'recommended' to 'approved.' EPA is correcting this error and changing the footnote back to ''recommended''. EPA has approved all biosolid methods listed in Table 1A.1 for parameter #1, including those listed in Footnote 11. More method validation data is available for EPA Methods 1680 and 1681 than Standard Method 9221. EPA methods are recommended over 9221 and 9222, although all four methods are approved for biosolids.

2. Standard Methods Method 9222 (B, D, I)-2015: Method 9222B–2015 Coliform (total); analyzes for total coliforms in non-potable waters by filtration through a 0.45-µm membrane filter and plated on mEndo or LES Endo agar. Method 9222D–2015 Coliform (fecal); analyzes for fecal coliforms in non-potable waters by filtration through a 0.45-µm membrane filter plated on mFC medium. Method 9222 I–2015 *E. coli;* membrane filtration (MF), analyzes presumptive positive filters from Method 9222B and 9222D using nutrient agar plates with MUG (NA–MUG) which are examined under a longwave UV lamp.

3. Standard Methods Method 9223B–2016, *E. coli,* multiple tube/multiple well: This method analyzes non-potable waters for *E. coli* using commercially available enzyme substrate media that is mixed with the sample and placed in multiple tubes or multiple well trays, incubated and examined under ambient light for Coliform (total) and under a longwave UV lamp for *E. coli.*

4. Standard Methods Method 9230 (B,C)-2013: Method 9230B–2013 (Fecal Streptococci) analyzes non-potable waters for streptococci using azide dextrose broth (ADB) Presumptive positive ADB tubes are confirmed by streaking onto bile esculin azide agar (BEA). Method 9230C–2013 Enterococci; analyzes non-potable waters by filtration through a 0.45-µm membrane filter and plated on mE agar.

5. Standard Methods Method 9230D–2013, Enterococci: This method analyzes non-potable waters using a hydrolyzable substrate (4-methylumbelliferyl-ß-D-glucoside) to detect enterococci in a multiple-tube or a multi-well format.

EPA is promulgating the following changes to Table IB at 40 CFR part 136:

1. Standard Methods Method 2540 series.

a. Method 2540B–2015, total solids. A sample aliquot is evaporated in a pre-weighed evaporating dish at 103–105 °C. Method 2540C–2015 filterable residue (total dissolved solids). The sample aliquot is then filtered through a glass fiber filter, and the filtrate is evaporated on a pre-weighed dish to constant weight at 180 °C.

b. Method 2540D–2015 non-filterable residue (total suspended solids). A sample aliquot is filtered through a pre-

weighed glass fiber filter which is then dried to constant weight at 103–105 °C.

c. Method 2540E–2015 volatile residue (fixed and volatile solids). The residue obtained from the determination of total (Method 2540B), filterable (Method 2540C) or non-filterable residue (Method 2540D) is ignited at 550 °C in a muffle furnace.

d. Method 2540F–2015 settleable residue (settleable solids). Settleable matter is measured with an Imhoff cone either volumetrically or gravimetrically.

2. Standard Methods Method 4500–CN^- (B–G)–2016, cyanide. Cyanides are measured after preliminary treatment of samples to remove interferences (4500–CN^- B). Manual distillation with magnesium chloride ($MgCl_2$) (4500–CN^- C) is followed by: Titration with silver nitrate (4500–CN^- D). Spectrophotometric measurement after cyanide in the alkaline distillate is converted to Cyanogen Chloride (4500–CN^- E). Potentiometric measurement using an ion selective electrode (4500–CN^- F). Cyanide amenable to chlorination (CATC) in which a portion of the sample is chlorinated at high pH and cyanide levels in the chlorinated sample are determined after manual distillation followed by titrimetric or spectrophotometric measurement. Amenable cyanide is calculated by the difference between the results for cyanide in the unchlorinated sample and the results for the chlorinated sample (4500–CN^- G).

3. Standard Methods Method 4500–NO_3^- D–2016. Nitrate (as nitrogen), measured using an ion-selective electrode that develops a potential across a thin, inert membrane holding in place a water-immiscible liquid ion exchanger.

4. Standard Methods Method 4500–NO_3^- (E, F, and H)–2016. Nitrate-nitrite (as nitrogen). Nitrate is reduced to nitrite using a cadmium-copper column, followed by diazotization to form a colored azo dye, which is measured by colorimetry either manually (4500–NO_3^- E) or automated (4500–NO_3^- F); or by reduction of nitrate to nitrite using hydrazine followed by automated colorimetric measurement of nitrite after diazotization (4500–NO_3^- H).

5. Standard Methods Method 4500–NO_3^- (E and F)–2016. Nitrite (as nitrogen). Colorimetric: bypasses the cadmium reduction step and measures nitrite after diazotization either by manual or automated colorimetric analysis.

6. Standard Methods Method 4500–O (B–F, and G)–2016. Measurement of oxygen (dissolved), using the Winkler iodometric titration procedure with modifications to eliminate or minimize certain interferences if necessary, based on sample type (4500–O B through F), or by use of polarographic or galvanic membrane electrodes (4500–O G).

7. Standard Methods Method 5210 B–2016., Biochemical oxygen demand (BOD_5) and carbonaceous biochemical oxygen demand ($CBOD_5$), dissolved oxygen depletion: The BOD_5 test is an indirect measurement of organic matter. It measures the change in dissolved oxygen (DO) concentration caused by microorganisms as they degrade organic matter in a sample held in a stoppered bottle incubated for 5 days in the dark at 20 °C. Nitrification inhibition is recommended for secondary-effluent samples, samples seeded with secondary effluent, and polluted water because nitrogenous compounds can oxidize in such samples. When a nitrification inhibitor is added as directed in 5210B.5e, results are reported as $CBOD_5$.

8. Standard Methods Method 5310 (B, C)–2014. Total organic carbon (TOC), combustion, heated persulfate or UV persulfate oxidation. In method 5310 B–2014 Combustion, a sample aliquot is combusted, transported in a carrier gas stream and measured via a nondispersive infrared analyzer, or titrated coulometrically. In method 5310C–2014 Persulfate, UV, or heated-persulfate oxidation method, persulfate oxidizes organic carbon. The produced CO_2 is then purged and measured by either nondispersive infrared (NDIR) analyzer, coulometrically titrated, or separated from the liquid stream by a membrane that specifically allows CO_2 to pass into high-purity water where the change in the high-purity water's conductivity corresponds to the amount of CO_2 passing the membrane.

Lastly, EPA is promulgating one revision to a previously approved Standard Methods method for which the Standard Methods Committee has adopted updates. This modification includes minor changes to method procedures that do not affect the performance of the method. EPA is promulgating the following change to Table IA and Table IH at 40 CFR part 136:

Standard Methods Method 9221F–2014 is an acceptable method for detecting fecal coliforms and *E. coli* simultaneously. This method analyzes Coliform (fecal) and *E. coli* using EC broth with 4-methylumbelliferyl-β-D-glucuronide (EC–MUG) with inverted vials and is an MPN method

D. Changes to 40 CFR 136.3 To Include New Standard Methods Methods Based on Previously Approved Technologies

EPA is promulgating changes based on the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113. This provides that federal agencies and departments must use technical standards developed or adopted by the VCSBs if the use of these standards would not be inconsistent with applicable law or otherwise impracticable. These methods submitted by the Standards Methods Committee are consistent with other methods already approved at 40 CFR part 136.

EPA is adding Standard Methods Method 4500–CN^- N–2016 to Table IB for Cyanide, total. Cyanide is measured after preliminary treatment of samples and manual distillation with magnesium chloride ($MgCl_2$) followed by automated spectrophotometric measurement after conversion to Cyanogen Chloride. This method is similar to the currently approved EPA Method 335.4, USGS Method I–4302–85, and Lachat Method 10–204–00–1–X, and uses semi-automated spectrophotometric measurement of cyanide.

2. EPA is adding Standard Methods Method 4500–NO_3^- I–2016 to Table IB for combined nitrate-nitrite, nitrite and nitrate by subtraction. Nitrate is reduced to nitrite using a cadmium-copper column followed by diazotization to form an azo dye which is measured by colorimetry. The cadmium reduction column may be by-passed for measurement of nitrite only. The value obtained for nitrite may be subtracted from the value obtained for combined nitrate-nitrite to calculate the concentration of nitrate. This method is similar to the currently approved EPA Method 353.2, Standard Methods Method 4500–NO_3^- F–2011, ASTM Method D3867–04 (A), and USGS Method I–2545–90, and uses automated cadmium reduction and spectrophotometric measurement of nitrite.

3. EPA is adding Standard Methods Method 4500–NO_3^- J–2018 to Table IB for measurement of combined nitrate-nitrite, nitrite, and for measurement of nitrate by subtraction. Nitrate is reduced to nitrite by an enzymatic reaction. The nitrite is diazotized to yield an azo dye which is measured colorimetrically. The enzyme reduction step may be by-passed for measurement of nitrite singly. The value obtained for nitrite may be subtracted from the value obtained for combined nitrate-nitrite to calculate the concentration of nitrate.

This method is similar to the currently approved NECi Method N07–0003, USGS Method I–2547–11, and USGS Method I–2548–11.

4. EPA is adding Standard Methods Method 4500–O H–2016 to Table IB for dissolved oxygen. This method uses a luminescent-based sensor for measurement of dissolved oxygen. The method is similar to the currently approved Hach Method 10360, In-Situ Method 1002–8–2009, and ASTM Method D888–09 (C).

E. Changes to 40 CFR 136.3 To Include New Versions of Approved ASTM Methods

EPA is approving new versions of ASTM methods previously approved in 40 CFR part 136 for the reasons outlined in the first paragraph of Section IV.C of this preamble. These changes to currently approved ASTM methods in 40 CFR part 136 include minor clarifications and editorial changes, and in some instances, minor changes to method procedures. None of these changes will affect the performance of the method. The following describes the changes to current ASTM methods that EPA is adding to 40 CFR part 136. Each entry contains (in the following order): The ASTM method number (the last two digits in the method number represent the year ASTM published), the parameter, a brief description of the analytical technique, and a brief description of any procedural changes in this revision from the last approved version of the method. The methods listed below are organized according to the table at 40 CFR part 136 in which they appear.

EPA is promulgating the following changes to Table IB at 40 CFR part 136:

1. ASTM Method D511–14 (A, B), calcium and magnesium, titrimetric, (EDTA), AA direct aspiration. Method D511–14 A, titrimetric. The pH of the sample is adjusted to 10 (for calcium), then to 12–13 (for magnesium) and titrated with ethylenediamine tetraacetic acid (EDTA) to form complexes with calcium and magnesium ions which react with an indicator to form a colored product. The volume of titrant used to affect the color change is proportional to the concentrations of calcium and magnesium in the sample. Method D511–14 B, AA direct aspiration. The sample is acidified and analyzed by atomic absorption. The concentrations of calcium and magnesium in the samples are proportional to the amount of light absorbed during the analysis and are determined in comparison to a standard curve. This version EPA is adding includes specifications for filter paper.

2. ASTM Method D512–12 chloride ion (A, B), titrimetric (mercuric nitrate), titration (silver nitrate). Method D512–12A, titrimetric mercuric nitrate. The sample is acidified and titrated with mercuric nitrate in the presence of a diphenylcarbazonebromophenol blue indicator. Method D512–12B, titrimetric silver nitrate. Sample pH is adjusted to phenolphthalein endpoint and titrated with silver nitrate in the presence of potassium chromate. The volume of titrant used to affect the color change in either method is proportional to the concentration of chloride in the sample. This version corrects one term in the chloride calculation.

3. ASTM Method D516–16, sulfate ion, turbidimetric. In this method, sulfate ions are converted to barium sulfate to form a suspension. The turbidity of the suspension is measured with a nephelometer, spectrophotometer, or photoelectric colorimeter, and compared to a standard curve to determine the sulfate concentration in the sample. This version adds specifications for filter paper.

4. ASTM Method D858–17 (A–C), manganese, atomic absorption (AA) direct aspiration, AA furnace. The sample is acid digested and analyzed by direct aspiration atomic absorption or graphite furnace atomic absorption. The concentration of manganese in the sample is proportional to the amount of light absorbed and is determined in comparison to a standard curve. There are no procedural changes.

5. ASTM Method D859–16, silica, colorimetric, manual. In this method, soluble silica in the sample is reacted with molybdate then reduced to form a blue complex in solution. The intensity of the blue complex is determined with a spectrophotometer or filter photometer and the concentration of silica is determined by comparison with a standard curve. There are no procedural changes.

6. ASTM Method D888–12 (A–C) dissolved oxygen, Winkler, electrode, luminescent-based sensor. Method D888–12A measures dissolved oxygen using the Winkler iodometric titration procedure. The volume of titrant used is proportional to the concentration of dissolved oxygen in the sample. Method D888–12B measures dissolved oxygen in the sample with an electrochemical probe that produces an electrical potential which is logarithmically proportional to the concentration of dissolved oxygen in the sample. Method D888–12C measures dissolved oxygen with a luminescence-based sensor probe that employs frequency domain lifetime-based luminescence quenching and signal processing. This version adds information on a two-point calibration and updated performance information from an interlaboratory study to D888–12C.

7. ASTM Method D1067–16, acidity or alkalinity, electrometric endpoint or phenolphthalein endpoint; electrometric or colorimetric titration to pH 4.5, manual. The acidity or alkalinity of the sample is determined by titration to a specific pH endpoint which is determined by colorimetry or with a pH electrode. The acidity or alkalinity is proportional to the volume of titrant required to affect the pH change. There are no procedural changes.

8. ASTM Method D1068–15 (A–C), iron, AA direct aspiration; AA furnace; colorimetric (Phenanthroline): The sample is acid digested and analyzed by either direct aspiration atomic absorption, graphite furnace atomic absorption, or colorimetry. The concentration of iron in the sample is proportional to the amount of light absorbed and is determined in comparison to a standard curve. The version as promulgated includes specifications for filter paper.

9. ASTM Method D1126–17, hardness, titrimetric (EDTA). The pH of the sample is adjusted, and an indicator is added forming a red color. The mixture is titrated until the color changes from red to blue. The volume of titrant used to affect the color change is proportional to the hardness in the sample. There are no procedural changes.

10. ASTM Method D1179–16 (A, B); fluoride ion, manual distillation, electrode, manual. Method D1179A, manual distillation. The sample is distilled as hydrofluorosilic acid and determined by ion-selective electrode. Method D1179B, electrode. The fluoride ion is determined potentiometrically with an ion-selective electrode in conjunction without sample distillation. There are no procedural changes.

11. ASTM Method D1246–16, bromide ion, electrode. The bromide in the sample is determined potentiometrically with an ion-selective electrode, either through comparison to a standard curve or through a direct readout on the instrument. There are no changes to method procedures.

12. ASTM Method D1252–06 (A, B) (Reapproved 2012), chemical oxygen demand, titrimetric, spectrophotometric. This is the 2012 reapproval of the 2006 ASTM method. Method D1252–06A, titrimetric measures the loss of the hexavalent

dichromate ion by reflux digestion followed by titration. The chemical oxygen demand in the sample is determined by comparison to a standard curve. Method D1252–06B, spectrophotometric, uses a spectrophotometer to measure the loss of the hexavalent dichromate ion at 420 nm or the increase in the trivalent chromium ion at 600 nm, after closed digestion and determines the chemical oxygen demand by comparison to a standard curve. There are no procedural changes.

13. ASTM Method D1253–14, residual chlorine, amperometric direct. The concentration of chlorine in the sample is determined by titration with phenylarsine oxide, using an amperometric probe that responds to chlorine to determine when the titration is complete. The chlorine concentration in the sample is proportional to the volume of titrant used. There are no procedural changes.

14. ASTM Method D1426–15 (A, B), ammonia nitrogen, Nesslerization, electrode. Method D1426A, Nesslerization. An aliquot is Nesslerized, and the ammonia content determined colorimetrically. Method D1426B, electrode. Ammonia is potentiometricly determined using a gas-permeable ion-selective electrode, either through comparison to a standard curve or through a direct readout on the instrument using. A lengthy section of QC requirements was added to the Nesslerization procedure (D1426A) that parallels the QC discussion that was already in the B procedure. Both procedures added information on use of commercially prepared standards and filter paper.

15. ASTM Method D1687–17 (A–C), chromium (total) and dissolved hexavalent chromium, colorimetric (diphenyl-carbazide); AA direct aspiration; AA furnace. Method D1687–17A, chromium (dissolved) measures dissolved hexavalent chromium by reacting it with diphenyl-carbohydrazide to produce a reddish-purple color that is measured with a spectrophotometer or filter photometer. The concentration in the sample is proportional to the intensity of the color. Method D1687–17B, chromium (total). The sample is acid digested and analyzed by direct aspiration atomic absorption. Method D1687–17C, chromium (total). The sample is acid digested and analyzed by graphite furnace atomic absorption. The concentration of total chromium in the sample is proportional to the amount of light absorbed during the analysis and is determined in comparison to a standard curve. The changes mirror those for the other metal methods. The QC frequencies for method blank, continuing calibration verification (CCV), continuing calibration blank (CCB), matrix spike, and duplicate analyses are now based on a laboratory-defined batch of up to 20 samples.

16. ASTM Method D1688–17 (A–C), copper, AA direct aspiration, AA furnace. The sample is acid digested and analyzed by direct aspiration atomic absorption (D1688–17A and B) or graphite furnace atomic absorption (D1688–17B). The concentration of copper in the sample is proportional to the amount of light absorbed and is determined in comparison to a standard curve. The changes mirror those for the other metal methods. The changes EPA is promulgating also clarify the requirements for a multi-point calibration by discussing it in the calibration section as well as the QC section of all three procedures. The QC frequencies for method blank, CCV, CCB, matrix spike, and duplicate analyses are now based on a laboratory-defined batch of up to 20 samples.

17. ASTM Method D1691–17 (A, B), zinc, AA direct aspiration. Method D1691–17A. The sample is acid digested and analyzed by direct aspiration atomic absorption. Method D1691–17B. The sample is processed by chelation-extraction and analyzed by atomic absorption. The concentration of zinc in the sample is proportional to the amount of light absorbed and is determined in comparison to a standard curve. The changes mirror those for the other metal methods. The QC frequencies for method blank, CCV, CCB, matrix spike, and duplicate analyses are now based on a laboratory-defined batch of up to 20 samples.

18. ASTM Method D1783–01 (A, B) (Reapproved 2012), phenols, manual distillation followed by manual colorimetric (4AAP). The sample is distilled, the distillate pH is adjusted to 10.0, and reacted with 4-aminoantipyrine to form a colored product. In Method D1783–01A, the colored product is extracted from the sample with chloroform and measured with a photometer at 460 nm. In Method D1783–01B, the colored product is measured without extraction, using a photometer at 510 nm. The concentration of phenolics is determined in comparison to a standard curve. There are no procedural changes.

19. ASTM Method D1886–14 (A–C), nickel AA direct aspiration, chelation extraction AA and AA furnace. Method D1886–14A. The sample is acid digested and analyzed by direct aspiration atomic absorption. Method D1886–14B. The sample is acid digested and the nickel chelated and extracted. The extract is analyzed by direct aspiration atomic absorption. Method D1886–14C. The sample is acid digested and analyzed by graphite furnace atomic absorption. The concentration of nickel in the sample is proportional to the amount of light absorbed during the analysis and is determined in comparison to a standard curve. The changes mirror those for the other metal methods. The QC frequencies for method blank, CCV, CCB, matrix spike, and duplicate analyses are now based on a laboratory-defined batch of up to 20 samples.

20. ASTM Method D2036–09 (A, B) (Reapproved 2015). D2036–09 A (total cyanide). Manual distillation followed by gas diffusion amperometry, titrimetric, spectrophotometric, ion chromatography, ion selective electrode. D2036–09 B (available (amenable) cyanide) Manual distillation followed by titrimetric or spectrophotometric. The cyanide in the sample is distilled and trapped in a sodium hydroxide solution. Method D2036–09A, the cyanide is treated with strong acid and a catalyst during distillation and measured by titration, gas diffusion amperometry, spectrophotometry, ion-selective electrode, ion chromatography, or flow injection analysis. Method D2036–09B—cyanide amenable to chlorination is determined by comparing the results for one sample aliquot analyzed for total cyanide and a second aliquot that is treated with calcium hypochlorite prior to analysis by Method D2036–09A. There are no procedural changes.

21. ASTM Method D2972–15 (A–C), arsenic, colorimetric, AA gaseous hydride, AA furnace. The sample is digested with nitric and sulfuric acids. Method D2972–15A. Arsenic is trapped in a solution of silver diethyldithiocarbamate in pyridine which produces a red-colored product that is analyzed photometrically by comparison to a standard curve. Method D2972–15B. Arsenic in the digested sample is determined by hydride generation atomic absorption. Method D2972–15C. Arsenic in the digested sample is determined by graphite furnace atomic absorption. The changes mirror those for the other metal methods. The QC frequencies for method blank, CCV, CCB, matrix spike, and duplicate analyses are now based on a laboratory-defined batch of up to 20 samples.

22. ASTM Method D3223–17, total mercury, cold vapor, manual. Mercury in the sample is converted to the mercuric ion, which is reduced to elemental mercury, purged from the

sample, and analyzed by cold vapor atomic absorption. The changes mirror those for the other metals methods, but this version changes the acceptance limit for the CCV from 10% to 15% and adds a requirement for a CCB. Given that the most comparable EPA procedure, Method 245.1, does not include a CCV requirement or an acceptance limit, the change of the acceptance limit from 10% to 15% in the revised ASTM method represents a requirement that is more stringent than that required in EPA's procedure.

23. ASTM Method D3373–17, vanadium, AA furnace. The sample is digested with nitric acid and analyzed by graphite furnace atomic absorption. The concentration of vanadium in the sample is proportional to the amount of light absorbed during the graphite furnace atomic absorption analysis and is determined in comparison to a standard curve. The changes mirror those for the other metals methods. The changes clarify the requirements for a multi-point calibration by discussing it in the calibration section as well as the QC section of all three procedures. The QC frequencies for method blank, CCV, CCB, matrix spike, and duplicate analyses are now based on a laboratory-defined batch of up to 20 samples.

24. ASTM Method D3557–17 (A–D), cadmium, AA direct aspiration, voltammetry, AA furnace. Method D3557–17A—the sample is acid digested and analyzed by direct aspiration atomic absorption. Method D3557–17B the sample is acid digested, the digestate is chelated and extracted. The extract analyzed by direct aspiration atomic absorption. Method D3557–17C—the sample is acid digested and analyzed by differential pulse anodic stripping voltammetry. Method D3557–17D. The sample is digested with nitric acid and analyzed by graphite furnace atomic absorption. The concentration of cadmium in the sample is determined in comparison to a standard curve. The changes mirror those for the other metals methods. The changes also clarify requirements for a multi-point calibration by discussing it in the calibration section as well as the QC section of all three procedures. The QC frequencies for method blank, CCV, CCB, matrix spike, and duplicate analyses are now based on a laboratory-defined batch of up to 20 samples, as opposed to 10 samples previously.

25. ASTM Method D3558–15 (A–C), cobalt, AA direct aspiration, chelation extraction AA, and AA furnace. Method D3558–15A.The sample is acid digested and analyzed by direct aspiration atomic absorption. Method D3558–15B.The sample is acid digested, chelated and extracted. The extract is analyzed by direct aspiration atomic absorption. Method D3558–15C. The sample is acid digested and analyzed by graphite furnace atomic absorption. The concentration of cobalt in the sample is proportional to the amount of light absorbed during the analysis and is determined in comparison to a standard curve. The changes mirror those for the other metals methods. The changes also clarify the requirements for a multi-point calibration by discussing it in the calibration section as well as the QC section of all three procedures. The QC frequencies for method blank, CCV, CCB, matrix spike, and duplicate analyses are now based on a laboratory-defined batch of up to 20 samples, as opposed to 10 samples previously.

26. ASTM Method D3559–15 (A–D), lead, AA direct aspiration, voltammetry, AA furnace. Method D3559–15A. The sample is acid digested and analyzed by direct aspiration atomic absorption. Method D3559–15B. The sample is acid digested, chelated and extracted. The extract is analyzed by direct aspiration atomic absorption. Method D3559–15C. The sample is acid digested and analyzed by differential pulse anodic stripping voltammetry. Method D3559–15D. The sample is digested with nitric acid and analyzed by graphite furnace atomic absorption. The changes mirror those for the other metals methods. The changes also clarify the requirements for a multi-point calibration by discussing it in the calibration section as well as the QC section of all three procedures. It also adds a new section with the QC requirements to the direct AA procedure that was already present in the AA furnace portion of this procedure (D3559–15 D).

27. ASTM Method D3590–17 (A, B), total Kjeldahl nitrogen, manual digestion and distillation or gas diffusion; semi-automated block digester colorimetric (distillation not required). Method D3590–17A. The sample is chemically processed to covert nitrogenous compounds to ammonia, then distilled or subjected to a gas diffusion system which releases the ammonia for analysis by colorimetry, titrimetry, or potentiometry. Method D3590–17B. The digestion and distillation are accomplished by a semi-automated system and the resulting ammonia is determined by colorimetry of the salicylate/nitroprusside Berthelot reaction product. This version changes the acceptance limit for the CCV from 10% to 15% and adds a requirement for a CCB. Given that neither the approved Standard Methods method for measuring ammonia after the TKN digestion, nor the comparable EPA Method 350.1, include a CCV requirement or an acceptance limit, the change of the acceptance limit from 10% to 15% in the revised ASTM method represents a requirement that is more stringent than that required in other approved procedures.

28. ASTM Method D3645–15, beryllium (A, B), AA direct aspiration AA furnace. Method D3645–15A. The sample is acid digested and analyzed by direct aspiration atomic absorption. Method D3645–15B. The sample is digested with nitric acid and analyzed by graphite furnace atomic absorption. This version adds specifications for filter paper. The changes also clarify the requirements for a three-point calibration by discussing it in the calibration section as well as the QC section of both procedures. It also adds a new section with the QC requirements to the direct aspiration AA procedure that was already present in the AA furnace portion of this procedure (D3645–15B).

29. ASTM Method D3859–15 (A, B), selenium, AA gaseous hydride, AA furnace. Method D3859–15A. The selenium in the sample is converted to gaseous selenium hydride, which is then analyzed by flame atomic absorption. Method D3859–15B. The selenium in the sample is converted to gaseous selenium hydride and analyzed by graphite furnace atomic absorption. The changes to the gaseous hydride portion of the method clarify the requirement for a 6-point calibration curve by discussing it in the calibration section as well as the QC section. The version adds an updated discussion of block digesters. The QC frequencies for method blank, CCV, CCB, matrix spike, and duplicate analyses are now based on a laboratory-defined batch, as opposed to an otherwise undefined ''batch.'' The GFAA portion contains similar editorial and technical changes. Technical changes also include specifications for filter paper. The calibration requirement for three standards has been clarified by discussing it in the calibration section as well as the QC section.

30. ASTM Method D3867–16 (A, B) nitrate-nitrite, nitrite and nitrate; automated cadmium reduction, manual cadmium reduction, bypass cadmium reduction and subtraction. The combination of nitrate and nitrite in the sample is determined by reducing the nitrate to nitrite using a cadmium-copper column, diazotizing and analyzing in either a manual or automated spectrophotometric system. A second aliquot of the sample can be analyzed without use of the cadmium

reduction column to determine the concentration of nitrate by difference. The changes add more detailed QC requirements, including specifically calling out the laboratory control sample (LCS), method blank, and matrix spike analyses. The 2016 version adds specifications for filter paper. It also changes the LCS frequency from 10% of samples to once per batch (up to 20) and sets the CCB and CCV frequencies at 10%.

31. ASTM Method D4190–15, dissolved elements and total recoverable elements, direct current plasma. The concentrations of various metal elements are determined by acidifying an aliquot of the sample and analyzing it by direct current plasma spectrometry, monitoring a specific wavelength of light for each element. There is one change that adds a requirement to run at least four calibration standards for all metals, as opposed to running four standards for only lithium to demonstrate linearity.

32. ASTM Method D4282–15, free cyanide, manual micro-diffusion and colorimetry. The sample is treated and allows for free cyanide to diffuse into a sodium hydroxide solution. An aliquot of that solution is treated to form a colored product that is measured with a spectrophotometer at 580 nm. There are no procedural changes.

33. ASTM Method D4327–17, inorganic anions (fluoride, bromide, chloride, nitrite, nitrate, orthophosphate, and sulfate), ion chromatography. An aliquot of the sample in injected into an ion chromatograph equipped with an anion exchange column and a conductivity detector. The anions are identified based on their retention times and concentrations are determined by comparison to a standard curve. Changes include updating the equipment and reagent descriptions to reflect more modern instrumentation, such as the use of hydroxide eluents and eluent regeneration systems.

34. ASTM Method D4382–18, barium, AA furnace. The sample is digested with nitric acid and analyzed by graphite furnace atomic absorption. The only procedural change is to the description of the hot block digester equipment. The new version specifies the capability to heat samples between 65 and 95 degrees C, instead of ''approximately 95 degrees C.'' That change recognizes the operational characteristics of hot block digesters that will experience a temperature drop below 95 degrees when samples are added. EPA has concluded that this should not adversely affect use of this method for barium.

35. ASTM Method D4658–15, sulfide ion, ion selective electrode. The sample is treated with a sulfide antioxidant buffer to create a highly alkaline solution. Sulfide in the sample is measured potentiometrically with an ion-selective electrode. There are no procedural changes.

36. ASTM Method D4839–03 (Reapproved 2017), total organic carbon; heated persulfate or UV persulfate oxidation. The sample is sparged with an inert gas to remove dissolved inorganic carbon and then treated with persulfate and either heat or UV radiation to convert organic carbon to carbon dioxide. The carbon dioxide is measured with an infra-red detector. There are no procedural changes.

37. ASTM Method D5257–17, dissolved hexavalent chromium, ion chromatography. The sample is filtered and buffered, and an aliquot injected into an ion chromatograph that separates hexavalent chromium from other ions. The eluent from the chromatograph is treated with an acidic solution of diphenylcarbohydrazide to form a violet-colored product that is measured with a photometric detector at 530 nm. The changes also include a few additional cautions and recommendations.

38. ASTM Method D5673–16, dissolved elements and total-recoverable elements, ICP/MS. The sample is acid digested and analyzed by inductively coupled plasma/mass spectrometry. Gold was added to the list of target analytes. Some of the changes address the analysis of gold.

39. ASTM Method D6508–15, inorganic anions (fluoride, bromide, chloride, nitrite, nitrate, orthophosphate, and sulfate), capillary ion electrophoresis with indirect UV detection. An aliquot of the sample is injected into a capillary ion electrophoresis instrument where the anions are separated in an applied electric field through a fused silica capillary. The analytes are detected by a UV detector and their concentrations are determined by comparison to a standard curve. There are no procedural changes.

40. ASTM Method D6888–16, available cyanide, flow injection and ligand exchange, followed by gas diffusion amperometry. An aliquot of the sample is introduced into a flow injection analysis instrument, where available cyanide is acidified to form hydrogen cyanide which diffuses through a hydrophobic gas diffusion membrane into an alkaline solution and is detected amperometrically with a silver electrode. This version adds a new mixed ligand exchange reagent, but also retains the original two ligand reagents that had to be mixed together during the testing.

41. ASTM Method D6919–17, inorganic alkali and alkaline earth cations and ammonium (ammonium, calcium magnesium, potassium and sodium), ion chromatography. An aliquot of the sample is injected into an ion chromatograph equipped with a cation exchange column and a conductivity detector. The cations are identified based on their retention times and concentrations are determined by comparison to a standard curve. There are no procedural changes.

42. ASTM Method D7237–15 A, free cyanide, flow injection, followed by gas diffusion amperometry. An aliquot of the sample is introduced into a flow injection analysis instrument, where it mixes with a phosphate buffer to release hydrogen cyanide which diffuses through a hydrophobic gas diffusion membrane into an alkaline solution and is detected amperometrically with a silver electrode. There are a few additions and changes to the newer version of note. These include changing the applicable range of the method in Section 1.4 at the low end, from 2 to 500 µg/L to 5 to 500 µg/L. New information about interferences from floatation reagents has been added to Section 6.3. New materials in Section 8 discuss alternative reagents or concentrations.

43. ASTM Method D7284–13 (Reapproved 2017), total cyanide, manual distillation with $MgCl_2$ followed by flow injection, gas diffusion amperometry. The sample is distilled with acid and a magnesium chloride catalyst to release cyanide to a sodium hydroxide solution. An aliquot of the sodium hydroxide solution is introduced into a flow injection analysis instrument, where it is acidified, and the hydrogen cyanide diffuses through a hydrophobic gas diffusion membrane into an alkaline solution and is detected amperometrically with a silver electrode. There are no procedural changes.

44. ASTM Method D7511–12 (Reapproved 2017), total cyanide, segmented flow injection, in-line ultraviolet digestion, followed by gas diffusion amperometry. The sample is introduced into a segmented flow injection analysis instrument, where UV light releases cyanide from cyanide complexes. The sample is then acidified in the instrument and the produced cyanide gas is detected amperometrically with a silver electrode. There are no procedural changes.

45. ASTM Method D7573–09 (Reapproved 2017), total organic carbon,

combustion. The sample is sparged with an inert gas to remove dissolved inorganic carbon, acidified, and then combusted at high temperature convert organic carbon to carbon dioxide. The carbon dioxide is measured with an infra-red detector. There are no procedural changes.

EPA is promulgating the following changes to Table IC at 40 CFR part 136:

1. ASTM Method D7065–17, nonylphenol, bisphenol A, p-tert-octylphenol, nonylphenol monoethoxylate, nonylphenol diethoxylate, gas chromatography/mass spectrometry (GC/MS). The sample is extracted with methylene chloride and the extract is injected into a gas chromatograph-mass spectrometer. The target analytes are identified by retention time and mass spectra and quantified using internal standards and a calibration curve. There are a large number of editorial and structural changes in the document, and a new QC section has been added.

F. Changes to 40 CFR 136.3 To Include a New ASTM Method Based on Previously Approved Technologies

EPA is promulgating these changes in furtherance of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, that provides that federal agencies and departments shall use technical standards developed or adopted by the VCSBs if compliance would not be inconsistent with applicable law or otherwise impracticable. This method submitted by ASTM is consistent with other already approved methods.

EPA is adding ASTM Method D7781–14 to Table IB for nitrate-nitrite, nitrite (bypass the enzymatic reduction step) and nitrate by subtraction. Nitrate is reduced to nitrite by an enzymatic reaction. The nitrite is diazotized to yield an azo dye which is measured colorimetrically. The enzyme reduction step may be by-passed for measurement of nitrite singly. The value obtained for nitrite may be subtracted from the value obtained for combined nitrate-nitrite to calculate the concentration of nitrate. This method is similar to the currently approved NECi Method N07–0003, USGS Method I–2547–11, and USGS Method I–2548–11.

G. Changes to 40 CFR 136.3 To Include New United States Geological Survey (USGS) Inorganic Methods Based on Previously Approved Technologies

1. EPA is adding USGS Method I–2057–85 titled ''Anions, ion-exchange chromatographic, automated,'' to Table IB for bromide. Method I–2057–85 is an ion chromatography method that lists several target analytes: Bromide, chloride, fluoride, nitrate, nitrite, orthophosphate, and sulfate. These are the same target analytes found in EPA Methods 300.0 (Part A) and 300.1 (Part A). Both EPA methods are approved in 40 CFR part 136 for the target analytes listed in the methods. USGS Method I–2057–85 is similar to EPA Method 300.0, in that it uses ion chromatography with a sodium bicarbonate/sodium carbonate eluent and has the same target analyte list. The two methods specify different columns and eluent concentrations but rely on essentially the same underlying chemistry and determinative technique as other ion chromatography methods approved at 40 CFR part 136 for measurement of bromide. That is, the sample is introduced into an ion chromatograph. The anions of interest are separated and measured, using a system comprised of a guard column, analytical column, suppressor device, and conductivity detector.

2. EPA is adding USGS Method I–2522–90 titled ''Nitrogen, ammonia, colorimetry, salicylate-hypochlorite, automated-segmented flow'' to Table IB for ammonia. USGS Method I–2522–90 uses the same underlying chemistry and determinative technique as other methods approved at 40 CFR part 136 for measurement of ammonia. The method is similar to other approved methods, such as EPA Method 350.1, Standard Methods Method 4500–NH3 G, and USGS Method I–4523–85, which rely on the Berthelot reaction. USGS Method I–2522–90 uses a modified version of the Berthelot reaction in which salicylate and hypochlorite react with ammonia in the presence of ferricyanide ions to form the salicylic analog of indophenol blue dye. The resulting color is directly proportional to the concentration of ammonia present and is measured using automated spectrophotometry. This is a well-documented modification to the Berthelot reaction used in EPA Method 351 and is specifically allowed in Table IB.

3. EPA is adding USGS Method I–2540–90 titled ''Nitrogen, nitrite, colorimetry, diazotization, automated-segmented flow'' to Table IB for nitrite. USGS Method I–2540–90 employs the same underlying chemistry and determinative technique as other methods approved at 40 CFR part 136 for measurement of nitrite. The method is similar to other methods approved at 40 CFR part 136 for measurement of nitrite, including USGS Method I–4540–85, which uses an automated-segmented flow analyzer (Technicon AA II). Method I–2540–90, nitrite reacts with sulfanilamide under acidic conditions to form a diazo compound which is coupled with N-1-naphthylethylenediamine dihydrochloride to form a red compound, the absorbance of which is measured using an automated-segmented flow, spectrophotometry.

4. EPA is adding USGS Method I–2601–90 titled ''Phosphorus, orthophosphate, colorimetry, phosphomolybdate, automated-segmented flow'' to Table IB for orthophosphate. USGS Method I–2601–90 employs the same underlying chemistry and determinative technique as other methods approved in 40 CFR part 136 for measurement of orthophosphate. Orthophosphate reacts with ammonium molybdate in acidic solution to form phosphomolybdic acid, which upon reduction with ascorbic acid produces an intensely blue complex the absorbance of which is measured using automated spectrophotometry. Antimony potassium tartrate is added to increase the rate of reduction. The method is similar to other approved methods, such as USGS Method I–4601–85 which uses an automated-segmented flow analyzer (Technicon AA II). The submitted USGS Method I–2601–90 also uses an automated-segmented flow analyzer (Alpkem rapid flow analyzer). It should be noted that the approved USGS Method I–4601–85 has two parameter codes listed:

a. Phosphorus, orthophosphate, dissolved, I–2601–85 (mg/L as P); and

b. Phosphorus, orthophosphate, total, I–4601–85 (mg/L as P).

Although USGS Method I–4601–85 is listed in Table IB, samples to be used for measurement of orthophosphate are to be filtered upon collection as provided in Table II. Therefore, the correct parameter code listed for the method should have been I–2601–85. I–2601–90 is just an updated version of that method (parameter code). In Section 3—Interferences, USGS Method I–2601–85 states: ''Because as phosphorus is easily adsorbed on sediment, the orthophosphate recovered from the supernatant solution above a water-suspended sediment after some time has elapsed may be less than the orthophosphate that would have been determined in the filtrate from a sample filtered at the time of collection. The amount recovered may also depend on the type of sediment (clay, sand, etc.).''

5. EPA is adding USGS Method I–4472–97 titled ''Metals, Acid Digestion, Whole-Water Recoverable, inductively coupled plasma-mass spectrometry'' to Table IB for certain

metals by ICP/MS. USGS Method I–4472–97 is an ICP/MS method that was previously listed under the same method number as the USGS ICP/AES Method I–4471–97 and was split out and assigned a unique method number by USGS in 2003. EPA is adding this to Table IB on the line for ICP/MS and replace USGS Method I–4471–97 as an approved method for measurement of the following 16 elements: Aluminum, antimony, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, molybdenum, nickel, selenium, silver, thallium and zinc. USGS Method I–4472–97 relies on the same underlying chemistry and determinative technique as other ICP/MS methods approved at 40 CFR part 136 for measurement of the same 16 elements (*e.g.,* EPA Method 200.8 and Standard Methods Method 3125 B) where analytes in the sample are solubilized by gentle refluxing with acids and then measured using inductively coupled plasma-mass spectrometry.

H. Changes to 40 CFR 136.3 To Include New United States Geological Survey (USGS) Organic Methods Based on Previously Approved Technologies

1. EPA is adding USGS Method O–4127–96 titled ''Determination of 86 Volatile Organic Compounds in Water by Gas Chromatography/Mass Spectrometry, Including Detections Less Than Reporting Limits'' to Table IC for certain organic compounds. USGS Method O–4127–96 relies on the same underlying chemistry and determinative technique as other methods approved at 40 CFR part 136 for measurement of the analytes. Volatile organic compounds are extracted by purging with helium, collected on a sorbent trap, thermally desorbed, separated by a gas chromatographic capillary column, and finally determined by a quadrupole mass spectrometer operated in full-scan mode. Compound identification is confirmed by the gas chromatographic retention time and by the resultant mass spectrum, typically identified by three unique ions.

2. EPA is adding USGS Method O–4436–16 titled ''Determination of Heat Purgeable and Ambient Purgeable Volatile Organic Compounds in Water by Gas Chromatography/Mass Spectrometry'' to Table IC for certain organic compounds. USGS Method O–4436–16 relies on the same underlying chemistry and determinative technique as other methods approved at 40 CFR part 136 for measurement of the analytes. Volatile organic compounds are extracted from a water sample and compounds are trapped in a tube containing suitable sorbent materials and then thermally desorbed into a capillary gas chromatographic column interfaced to a mass spectrometer system. Selected compounds are identified by using strict qualification criteria, which include analyzing standard reference materials and comparing retention times and relative ratios of the mass spectra. Compounds are quantitated using internal standard procedures.

I. Changes to 40 CFR 136.3 To Include Alternate Test Procedures (ATPs)

To promote method innovation, EPA maintains a program that allows method developers to apply for EPA review and potential approval of an alternative method to an existing EPA approved method. This ATP program is described for CWA applications at 40 CFR 136.4 and 136.5. EPA is promulgating three ATPs for nationwide use. Based on EPA's review, the performance of these ATPs is equally effective as other methods already approved for measurement. The ATP applicants supplied EPA with study reports that contain the data from their validation studies that support EPA's conclusion that the ATPs are equally effective to currently approved methods. These study reports and the letters documenting EPA's review are contained as supporting documents within the docket for this final rule. These new methods include: FIAlab Method 100, ''Determination of Inorganic Ammonia by Continuous Flow Gas Diffusion and Fluorescence Detector Analysis,'' MACHEREY-NAGEL GmbH and Co. Method 036/038 NANOCOLOR® COD LR/HR, ''Spectrophotometric Measurement of Chemical Oxygen Demand in Water and Wastewater,'' and Micrology Laboratories, LLC. KwikCount™ EC Medium *Escherichia coli* (*E. coli*) enzyme substrate test, ''Rapid Detection of *E. coli* in Beach Water by KwikCount™ EC Membrane Filtration.'' Descriptions of these new methods are as follows:

1. FIAlab Instruments, Inc. Method 100, ''Determination of Inorganic Ammonia by Continuous Flow Gas Diffusion and Fluorescence Detector Analysis,'' dated April 4, 2018 (FIAlab Instruments, Inc. 2018a). FIAlab Method 100 uses automated flow injection analysis with gas diffusion and fluorescence detector analysis to determine concentrations of ammonia in wastewater, ambient water, and Kjeldahl digestates. FIAlab Method 100 can be obtained from FIAlab Instruments, Inc., 2151 N Northlake Way, Seattle, WA 98103. Telephone: 425–376–0450.

2. MACHEREY-NAGEL GmbH and Co. Method 036/038 NANOCOLOR® COD LR/HR, ''Spectrophotometric Measurement of Chemical Oxygen Demand in Water and Wastewater,'' Revision 1.5, dated, May 2018 (MACHEREY-NAGEL GmbH and Co. 2018a). MACHEREY-NAGEL Method 036/038 NANOCOLOR® COD LR/HR is a manual method that uses spectrophotometry to measure chemical oxygen demand in wastewater. MACHEREY-NAGEL GmbH and Co. Method 036/038 NANOCOLOR® COD LR/HR, can be obtained from MACHEREY-NAGEL GmbH and Co., 2850 Emrick Blvd., Bethlehem, PA 18020. Telephone: 888–321–6224.

3. Micrology Laboratories LLC. KwikCount™ EC Medium *E. coli* enzyme substrate test, ''Rapid Detection of *E. coli* in Beach Water by KwikCount™ EC Membrane Filtration'' uses a membrane filtration procedure for rapid detection and enumeration of *E. coli* in ambient water. The KwikCount™ EC Medium *E. coli* enzyme substrate test can be obtained from Micrology Laboratories, LLC, 1303 Eisenhower Drive, Goshen, IN 46526. Telephone: 574–533–3351.

J. Changes to 40 CFR 136.3, Tables IA, IB, and IH

EPA is promulgating the following changes to 40 CFR 136.3, Tables IA and IH:

1. Table IA: Moving Colilert-18 from Parameter #1 Coliform (fecal), number per 100 mL or number per gram dry weight, to Parameter #2 Coliform (fecal), (number per 100 mL), to eliminate confusion as to whether it is approved for sewage sludge in addition to wastewater.

2. Table IA: Adding *E. coli,* number per 100 mL − MF, two-step, Standard Methods Method 9222 B/9222 I, to the table along with footnote 31 ''Subject coliform positive samples determined by 9222 B–2015 or other membrane filter procedure to 9222 I–2015 using NA–MUG media.'' The method was inadvertently omitted from Table IA when Table IA was split into two tables (IA and IH) in an earlier rulemaking; the addition corrects that error.

3. Table IA: Revising Parameter #2 Coliform (fecal), deleting ''in presence of chlorine,'' number per 100 mL. The phrase ''in the presence of chlorine'' caused confusion because the methods cited were the same for the analyte/matrix combination that did not state ''in the presence of chlorine.'' The approved methods did not change.

4. Table IA: Deleting Parameter #4 Coliform (total) in presence of chlorine, number per 100 mL. Except for ''MF with enrichment,'' all the methods were duplicative (*e.g.,* Parameters #3 and #4). No approved methods for coliform (total) were removed from Table IA.

5. Table IH: Deleting Parameters #2 Coliform (fecal) in presence of chlorine, number per 100 mL and #4 Coliform (total) in presence of chlorine, number per 100 mL. Except for ''MF with enrichment'' for coliform (total), all the methods were duplicative (*e.g.,* Parameters #1 and #2). In addition to the methods being duplicative, Table IH is for ambient water which would not be expected to contain chlorine. No approved methods for coliform (fecal) or coliform (total) were removed from Table IH. The remaining parameters are renumbered.

6. Tables IA and IH: Revising footnote 13 to Table IA and footnote 12 to Table IH as follows ''These tests are collectively known as defined enzyme substrate tests.'' The remaining text, ''where, for example, a substrate is used to detect the enzyme β-glucuronidase produced by *E. coli*'' has been deleted because the example has caused some confusion to stakeholders.

7. Tables IA and IH: Adding Quanti-Tray®/2000 as an option to footnotes 13 (IH), 15 (IH), 16 (IA) and 18 (IA). The addition of Quanti-Tray®/2000 is to address matrices with high bacterial concentrations and to ensure Tables IA and IH are accurate and consistent.

8. Tables IA and IH: Adding footnote 30 to Table IA and footnote 27 to Table IH to specify a verification procedure. The footnotes contain the following language: ''On a monthly basis, at least ten sheen colonies from positive samples must be verified using Lauryl Tryptose Broth and brilliant green lactose bile broth, followed by count adjustment based on these results; and representative non-sheen colonies should be verified using Lauryl Tryptose Broth. Where possible, verifications should be done from randomized sample sources.'' Adding the footnotes addresses the change in Standard Methods Method 9222 B–2015 that stated that five typical and five atypical colonies should be verified per membrane, which could be burdensome to laboratories analyzing samples other than drinking water. In most cases, analysis of ambient waters and wastewaters could result in multiple plates per sample with typical and atypical colonies, whereas drinking water analyses would seldom result in any typical or atypical colonies. In addition, the language in footnotes 29 (IA) and 26 (IH), was revised as follows ''the medium'' was replaced with ''positive samples'' for clarity and consistency.

9. Tables IA and IH: Adding footnote 32 to Table IA and footnote 30 to Table IH. The footnotes contain the following language ''Verification of colonies by incubation of BHI agar at 10 ± 0.5 °C for 48 ± 3 h is optional.'' As per the Errata to the 23rd Edition of Standard Methods for the Examination of Water & Wastewater, ''Growth on a BHI agar plate incubated at 10 ± 0.5 °C for 48 ± 3 h is further verification that the colony belongs to the genus Enterococcus.''

10. Updating the Aquatic Toxicity Table to include the editorial correction from publex to pulex and adding the common names of the genus and species.

11. Table IH: Deleting ''or number per gram dry weight'' from Parameter #1. Table IH is specifically for ambient waters, which does not require reporting results on a per gram dry weight basis.

12. Table IH: Adding the Alternate Test Procedure KwikCount™ EC for *E. coli,* number per 100 mL under ''Other.''

13. Table IH: Adding EPA Method 1623.1 for Parameters 6 and 7. EPA Method 1623.1 includes updated acceptance criteria for IPR, OPR, and MS/MSD, and clarifications and revisions based on the use of EPA Method 1623 and technical support questions over the past 19 years. EPA is approving the use of both methods 1623 and 1623.1 for Parameters 6 and 7.

14. Table IH: Deleting footnote 5, ''Because the MF technique usually yields low and variable recovery from chlorinated wastewaters, the Most Probable Number method will be required to resolve any controversies.'' Table IH is specifically for ambient waters, so the footnote is not applicable. The remaining footnotes are renumbered accordingly.

15. Table IH: Revising footnote 20, to reference only EPA Method 1604. The literature reference was deleted from the footnote because it resulted in confusion as to whether EPA Method 1604 provided all the necessary information required by stakeholders to conduct analyses of ambient waters under the CWA.

K. Changes to Table II at 40 CFR 136.3(e) to Required Containers, Preservation Techniques, and Holding Times

EPA is updating footnote 6 to the preservation and holding time requirements for cyanide to cite the latest version of ASTM method D7365–09a that was reapproved in 2015. The recommended sampling and preservation procedures in the ASTM method have not changed since 2009, but the change to footnote 6 will simplify identification of the current method that is available from ASTM International.

EPA is adding a call-out to footnote 9 to the preservation and holding time requirements for the purgeable halocarbons entry. This will allow the flexibility to collect a single sample with no acidification to be used for analysis of both purgeable halocarbons and purgeable aromatic hydrocarbons within seven days of collection, or to collect a single sample with acidification to be used for analysis of both purgeable halocarbons (except 2–CEVE) and purgeable aromatic hydrocarbons within the 14-day maximum holding time specified in Table II for both classes of compounds. The added flexibility is consistent with historical requirements for preservation in 40 CFR part 136 and holding time requirements in other EPA program methods, such as the SW–846 methods in the Office of Land and Emergency Management. This is part of EPA's ongoing effort to harmonize methods between EPA programs, as requested by the Environmental Laboratory Advisory Board (ELAB).

Footnote 9 to Table II states: ''If the sample is not adjusted to pH 2, then the sample must be analyzed within seven days of sampling.''

L. Changes to 40 CFR 136.6 Method Modifications and Analytical Requirements

In response to requests from ELAB and the Independent Laboratories Institute, EPA is adding a new paragraph (b)(4)(xviii) to 40 CFR 136.6 that explicitly allows the use of closed-vessel microwave digestion as a modification to the approved metals digestion procedure that does not require prior approval. Microwave digestion has the same fundamental chemistry as a hot plate digestion, both the microwave and hot plate serve the same function as heat sources.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This rule is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for interagency review under this E.O.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the

Paperwork Reduction Act. This rule does not impose any information collection, reporting, or recordkeeping requirements. This rule merely adds or revises CWA test procedures.

C. Regulatory Flexibility Act

I certify that this action would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This action will not impose any requirements on small entities. This action would approve new and revised versions of CWA testing procedures. Generally, these changes have a positive impact on small entities by increasing method flexibility, thereby allowing entities to reduce costs by choosing more cost-effective methods. In general, EPA expects the final revisions will lead to few, if any, increased costs. As explained previously, most of the changes clarify or improve the instructions in the method, update the technology used in the method, improve the QC instructions, make editorial corrections, or reflect the most recent approval year of an already approved method. In some cases, they would add alternatives to currently approved methods for a particular analyte (*e.g.,* Method N07–0003 for Nitrate Reductase Nitrate-Nitrogen Analysis). Because these methods would be alternatives rather than requirements, there are no direct costs associated with this proposal. EPA finalized methods that would be incorporated by reference. If a permittee elected to use these methods, they could incur a small cost associated with obtaining these methods from the listed sources. See Section IV.B of this preamble.

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications as specified in Executive Order 13175. This rule merely approves new and revised versions of test procedures. EPA has concluded that the final rule would not lead to any costs to any tribal governments, and in the event there are any, EPA projects they would be minimal. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995

This action involves technical standards. EPA is approving the use of technical standards developed and recommended by the Standard Methods Committee and ASTM International for use in compliance monitoring where EPA determined that those standards meet the needs of CWA programs. As described above, the final rule is consistent with the NTTAA.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA has concluded that this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations.

L. Congressional Review Act

This action is subject to the Congressional Review Act and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 136

Environmental protection, Incorporation by reference, Reporting and recordkeeping requirements, Test procedures, Water pollution control.

Michael S. Regan,

Administrator.

For the reasons set out in the preamble, the EPA amends 40 CFR part 136 as follows:

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

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

Authority: Secs. 301, 304(h), 307 and 501(a), Pub. L. 95–217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (the Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977).

■ 2. Amend § 136.3:
■ a. In paragraph (a):
■ i. In the introductory text, in the seventh sentence, by removing the word ''year'' and adding in its place the word ''date'', and removing from the last sentence the text ''(paragraph (c) of this section, in § 136.5(a) through (d) or 40 CFR 401.13)'' and adding in its place the text ''paragraph (c) of this section, § 136.5(a) through (d) or 40 CFR 401.13,'' respectively;
■ ii. By revising tables IA, IB, IC, and IH;
■ b. In paragraph (b) by:
■ i. Revising the introductory text; paragraph (b)(8) introductory text, and paragraphs (b)(8)(ix) through (xv);
■ ii. Adding paragraph (b)(8)(xvi);
■ iii. Revising paragraphs (b)(10)(xiv), (xxxix), (xliv), (xlvi), (lii), (liv), and (lxvii) through (lxx), (b)(15)(v), (vi), (viii) through (xiii), (xv) through (xix), (xxi) through (xxvi), (xxxi), (xxxiv), (xxxv), (xxxvii), (xxxix) through (xliii), (xlv) through (l), (lii), (liv), (lv), (lviii), (lxi) through (lxvi), (lxviii), and (lxix);
■ iv. Adding paragraph (b)(15)(lxx);
■ v. Redesignating paragraphs (b)(25) through (36) as paragraphs (b)(28) through (39);
■ vi. Redesignating paragraphs (b)(19) through (24) as paragraphs (b)(20) through (25);
■ vii. Adding new paragraphs (b)(19), (26), and (27);
■ viii. Revising the newly redesignated paragraphs (b)(38)(ii) through (xxi);
■ ix. Adding paragraphs (b)(38)(xxii) and (xxiii); and
■ c. By revising table II in paragraph (e).

The revisions and additions read as follows:

§ 136.3 Identification of test procedures.

* * * * *

TABLE IA—LIST OF APPROVED BIOLOGICAL METHODS FOR WASTEWATER AND SEWAGE SLUDGE

Parameter and units	Method [1]	EPA	Standard methods	AOAC, ASTM, USGS	Other
Bacteria					
1. Coliform (fecal), number per 100 mL or number per gram dry weight.	Most Probable Number (MPN), 5 tube, 3 dilution, or.	p. 132,[3] 1680,[11 15] 1681 [11 20].	9221 E–2014.		
	Membrane filter (MF) [2 5], single step	p. 124 [3]	9222 D–2015 [29]	B–0050–85 [4].	
2. Coliform (fecal), number per 100 mL	MPN, 5 tube, 3 dilution, or	p. 132 [3]	9221 E–2014; 9221 F–2014 [33].		
	Multiple tube/multiple well, or				Colilert-18®.[13 18 28]
	MF [2 5], single step [5]	p. 124 [3]	9222 D–2015 [29].		
3. Coliform (total), number per 100 mL	MPN, 5 tube, 3 dilution, or	p. 114 [3]	9221 B–2014.		
	MF [2 5], single step or two step	p. 108 [3]	9222 B–2015 [30]	B–0025–85 [4].	
	MF [2 5], with enrichment	p. 111 [3]	9222 B–2015 [30].		
4. *E. coli,* number per 100 mL	MPN [6 8 16] multiple tube, or		9221 B2014/9221 F–2014 [12 14 33].		
	multiple tube/multiple well, or		9223 B–2016 [13]	991.15 [10]	Colilert® [13 18] Colilert-18® [13 17 18]
	MF [2 5 6 7 8], two step, or		9222 B–2015/9222 I–2015 [31].		
	Single step	1603 [21]			m-ColiBlue24®.[19]
5. Fecal streptococci, number per 100 mL.	MPN, 5 tube, 3 dilution, or	p. 139 [3]	9230 B–2013.		
	MF [2], or	p. 136 [3]	9230 C–2013 [32]	B–0055–85 [4].	
	Plate count	p. 143 [3].			
6. Enterococci, number per 100 mL	MPN, 5 tube, 3 dilution, or	p. 139 [3]	9230 B–2013.		
	MPN [6 8], multiple tube/multiple well, or.		9230 D–2013	D6503–99 [9]	Enterolert®.[13 23]
	MF [2 5 6 7 8] single step or	1600 [24]	9230 C–2013 [32].		
	Plate count	p. 143 [3].			
7. *Salmonella,* number per gram dry weight [11].	MPN multiple tube	1682 [22].			
Aquatic Toxicity					
8. Toxicity, acute, fresh water organisms, LC_{50}, percent effluent.	Water flea, Cladoceran, *Ceriodaphnia dubia* acute.	2002.0 [25].			
	Water fleas, Cladocerans, *Daphnia pulex* and *Daphnia magna* acute.	2021.0 [25].			
	Fish, Fathead minnow, *Pimephales promelas,* and Bannerfin shiner, *Cyprinella leedsi,* acute.	2000.0 [25].			
	Fish, Rainbow trout, *Oncorhynchus mykiss,* and brook trout, *Salvelinus fontinalis,* acute.	2019.0 [25].			
9. Toxicity, acute, estuarine and marine organisms of the Atlantic Ocean and Gulf of Mexico, LC_{50}, percent effluent.	Mysid, *Mysidopsis bahia,* acute	2007.0 [25].			
	Fish, Sheepshead minnow, *Cyprinodon variegatus,* acute.	2004.0 [25]. 2006.0 [25].			
	Fish, Silverside, *Menidia beryllina, Menidia menidia,* and *Menidia peninsulae,* acute.				
10. Toxicity, chronic, fresh water organisms, NOEC or IC_{25}, percent effluent.	Fish, Fathead minnow, *Pimephales promelas,* larval survival and growth.	1000.0 [26].			
	Fish, Fathead minnow, *Pimephales promelas,* embryo-larval survival and teratogenicity.	1001.0 [26].			
	Water flea, Cladoceran, *Ceriodaphnia dubia,* survival and reproduction.	1002.0 [26].			
	Green alga, *Selenastrum capricornutum,* growth.	1003.0 [26].			
11. Toxicity, chronic, estuarine and marine organisms of the Atlantic Ocean and Gulf of Mexico, NOEC or IC_{25}, percent effluent.	Fish, Sheepshead minnow, *Cyprinodon variegatus,* larval survival and growth.	1004.0 [27].			
	Fish, Sheepshead minnow, *Cyprinodon variegatus,* embryo-larval survival and teratogenicity.	1005.0 [27].			
	Fish, Inland silverside, *Menidia beryllina,* larval survival and growth.	1006.0 [27].			
	Mysid, *Mysidopsis bahia,* survival, growth, and fecundity.	1007.0 [27].			
	Sea urchin, *Arbacia punctulata,* fertilization.	1008.0 [27].			

Table IA notes:

[1] The method must be specified when results are reported.

[2] A 0.45-μm membrane filter (MF) or other pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with their growth.

[3] Microbiological Methods for Monitoring the Environment, Water and Wastes, EPA/600/8–78/017. 1978. U.S. EPA.

[4] U.S. Geological Survey Techniques of Water-Resource Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples. 1989. USGS.

[5] Because the MF technique usually yields low and variable recovery from chlorinated wastewaters, the Most Probable Number method will be required to resolve any controversies.

[6] Tests must be conducted to provide organism enumeration (density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, character, consistency, and anticipated organism density of the water sample.

[7] When the MF method has been used previously to test waters with high turbidity, large numbers of noncoliform bacteria, or samples that may contain organisms stressed by chlorine, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[8] To assess the comparability of results obtained with individual methods, it is suggested that side-by-side tests be conducted across seasons of the year with the water samples routinely tested in accordance with the most current *Standard Methods for the Examination of Water and Wastewater* or EPA alternate test procedure (ATP) guidelines.

[9] Annual Book of ASTM Standards-Water and Environmental Technology, Section 11.02. 2000, 1999, 1996. ASTM International.

[10] Official Methods of Analysis of AOAC International. 16th Edition, 4th Revision, 1998. AOAC International.

[11] Recommended for enumeration of target organism in sewage sludge.

[12] The multiple-tube fermentation test is used in 9221B.2–2014. Lactose broth may be used in lieu of lauryl tryptose broth (LTB), if at least 25 parallel tests are conducted between this broth and LTB using the water samples normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform using lactose broth is less than 10 percent. No requirement exists to run the completed phase on 10 percent of all total coliform-positive tubes on a seasonal basis.

[13] These tests are collectively known as defined enzyme substrate tests.

[14] After prior enrichment in a presumptive medium for total coliform using 9221B.2–2014, all presumptive tubes or bottles showing any amount of gas, growth or acidity within 48 h ± 3 h of incubation shall be submitted to 9221F–2014. Commercially available EC–MUG media or EC media supplemented in the laboratory with 50 μg/mL of MUG may be used.

[15] Method 1680: Fecal Coliforms in Sewage Sludge (Biosolids) by Multiple-Tube Fermentation Using Lauryl-Tryptose Broth (LTB) and EC Medium, EPA–821–R–14–009. September 2014. U.S. EPA.

[16] Samples shall be enumerated by the multiple-tube or multiple-well procedure. Using multiple-tube procedures, employ an appropriate tube and dilution configuration of the sample as needed and report the Most Probable Number (MPN). Samples tested with Colilert® may be enumerated with the multiple-well procedures, Quanti-Tray® or Quanti-Tray®/2000 and the MPN calculated from the table provided by the manufacturer.

[17] Colilert-18® is an optimized formulation of the Colilert® for the determination of total coliforms and *E. coli* that provides results within 18 h of incubation at 35 °C rather than the 24 h required for the Colilert® test and is recommended for marine water samples.

[18] Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, and Quanti-Tray®/2000 may be obtained from IDEXX Laboratories, Inc.

[19] A description of the mColiBlue24® test is available from Hach Company.

[20] Method 1681: Fecal Coliforms in Sewage Sludge (Biosolids) by Multiple-Tube Fermentation Using A–1 Medium, EPA–821–R–06–013. July 2006. U.S. EPA.

[21] Method 1603: *Escherichia coli* (*E. coli*) in Water by Membrane Filtration Using Modified Membrane-Thermotolerant *Escherichia coli* Agar (modified mTEC), EPA–821–R–14–010. September 2014. U.S. EPA.

[22] Method 1682: *Salmonella* in Sewage Sludge (Biosolids) by Modified Semisolid Rappaport-Vassiliadis (MSRV) Medium, EPA–821–R–14–012. September 2014. U.S. EPA.

[23] A description of the Enterolert® test may be obtained from IDEXX Laboratories Inc.

[24] Method 1600: Enterococci in Water by Membrane Filtration Using Membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (mEI), EPA–821–R–14–011. September 2014. U.S. EPA.

[25] Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, EPA–821–R–02–012. Fifth Edition, October 2002. U.S. EPA; and U.S. EPA Whole Effluent Toxicity Methods Errata Sheet, EPA 821–R–02–012–ES. December 2016.

[26] Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, EPA–821–R–02–013. Fourth Edition, October 2002. U.S. EPA; and U.S. EPA Whole Effluent Toxicity Methods Errata Sheet, EPA 821–R–02–012–ES. December 2016.

[27] Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms, EPA–821–R–02–014. Third Edition, October 2002. U.S. EPA; and U.S. EPA Whole Effluent Toxicity Methods Errata Sheet, EPA 821–R–02–012–ES. December 2016.

[28] To use Colilert-18® to assay for fecal coliforms, the incubation temperature is 44.5 ± 0.2 °C, and a water bath incubator is used.

[29] On a monthly basis, at least ten blue colonies from positive samples must be verified using Lauryl Tryptose Broth and EC broth, followed by count adjustment based on these results; and representative non-blue colonies should be verified using Lauryl Tryptose Broth. Where possible, verifications should be done from randomized sample sources.

[30] On a monthly basis, at least ten sheen colonies from positive samples must be verified using lauryl tryptose broth and brilliant green lactose bile broth, followed by count adjustment based on these results; and representative non-sheen colonies should be verified using lauryl tryptose broth. Where possible, verifications should be done from randomized sample sources.

[31] Subject coliform positive samples determined by 9222 B–2015 or other membrane filter procedure to 9222 I–2015 using NA–MUG media.

[32] Verification of colonies by incubation of BHI agar at 10 ± 0.5 °C for 48 ± 3 h is optional. As per the Errata to the 23rd Edition of *Standard Methods for the Examination of Water and Wastewater* ''Growth on a BHI agar plate incubated at 10 ± 0.5 °C for 48 ± 3 h is further verification that the colony belongs to the genus *Enterococcus*.''

[33] 9221 F.2–2014 allows for simultaneous detection of *E. coli* and thermotolerant fecal coliforms by adding inverted vials to EC–MUG; the inverted vials collect gas produced by thermotolerant fecal coliforms.

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES

Parameter	Methodology [58]	EPA [52]	Standard methods [84]	ASTM	USGS/AOAC/other
1. Acidity, as $CaCO_3$, mg/L.	Electrometric endpoint or phenolphthalein endpoint.	.....	2310 B–2011	D1067–16	I–1020–85.[2]
2. Alkalinity, as $CaCO_3$, mg/L.	Electrometric or Colorimetric titration to pH 4.5, Manual.	.....	2320 B–2011	D1067–16	973.43,[3] I–1030–85.[2]
	Automatic	310.2 (Rev. 1974) [1] ..	.....	.....	I–2030–85.[2]
3. Aluminum—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]	.....	3111 D–2011 or 3111 E–2011.	.....	I–3051–85.[2]
	AA furnace	.....	3113 B–2010.		
	STGFAA	200.9, Rev. 2.2 (1994)/			
	ICP/AES [36]	200.5, Rev 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4472–97.[81]
	Direct Current Plasma (DCP) [36]	.....	.....	D4190–15	See footnote.[34]
	Colorimetric (Eriochrome cyanine R)	.....	3500–Al B–2011.		
4. Ammonia (as N), mg/L.	Manual distillation [6] or gas diffusion (pH > 11), followed by any of the following:	350.1, Rev. 2.0 (1993).	4500–NH_3 B–2011 ...	.....	973.49.[3]
	Nesslerization	.....	.....	D1426–15 (A)	973.49,[3] I–3520–85.[2]
	Titration	.....	4500–NH_3 C–2011.		
	Electrode	.....	4500–NH_3 D–2011 or E–2011.	D1426–15 (B).	

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods [84]	ASTM	USGS/AOAC/other
	Manual phenate, salicylate, or other substituted phenols in Berthelot reaction-based methods.	.....	4500–NH_3 F–2011 ...	.....	See footnote.[60]
	Automated phenate, salicylate, or other substituted phenols in Berthelot reaction-based methods.	350.1,[30] Rev. 2.0 (1993).	4500–NH_3 G–2011 4500–NH_3 H–2011.	.....	I–4523–85,[2] I–2522–90.[80]
	Automated electrode	.....	.....	.....	See footnote.[7]
	Ion Chromatography	.....	.....	D6919–17.	
	Automated gas diffusion, followed by conductivity cell analysis.	.....	.....	.....	Timberline Ammonia-001.[74]
	Automated gas diffusion followed by fluorescence detector analysis.	.....	.....	.....	FIAlab100.[82]
5. Antimony—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]	.....	3111 B–2011.		
	AA furnace	.....	3113 B–2010.		
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12.	
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4472–97.[81]
6. Arsenic-Total,[4] mg/L	Digestion,[4] followed by any of the following:	206.5 (Issued 1978) [1].			
	AA gaseous hydride	.....	3114 B–2011 or 3114 C–2011.	D2972–15 (B)	I–3062–85.[2]
	AA furnace	.....	3113 B–2010	D2972–15 (C)	I–4063–98.[49]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12.	
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4020–05.[70]
	Colorimetric (SDDC)	.....	3500–As B–2011	D2972–15 (A)	I–3060–85.[2]
7. Barium-Total,[4] mg/L	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]	.....	3111 D–2011	.....	I–3084–85.[2]
	AA furnace	.....	3113 B–2010	D4382–18.	
	ICP/AES [36]	200.5, Rev 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	.....	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4472–97.[81]
	DCP [36]	.....	.....	.....	See footnote.[34]
8. Beryllium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration	.....	3111 D–2011 or 3111 E–2011.	D3645–15 (A)	I–3095–85.[2]
	AA furnace	.....	3113 B–2010	D3645–15 (B).	
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES	200.5, Rev 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4472–97.[81]
	DCP	.....	.....	D4190–15	See footnote.[34]
	Colorimetric (aluminon)	.....	See footnote.[61].		
9. Biochemical oxygen demand (BOD_5), mg/L.	Dissolved Oxygen Depletion	.....	5210 B–2016 [85]	.....	973.44,[3] p. 17,[9] I–1578–78,[8] See footnote.[10, 63]
10. Boron—Total,[37] mg/L.	Colorimetric (curcumin)	.....	4500–B B–2011	.....	I–3112–85.[2]
	ICP/AES	200.5, Rev 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14.[3]
	DCP	.....	.....	D4190–15	S7ee footnote.[34]
11. Bromide, mg/L	Electrode	.....	.....	D1246–16	I–1125–85.[2]
	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1, Rev 1.0 (1997).	4110 B–2011, C–2011, D–2011.	D4327–17	993.30,[3] I–2057–85.[79]
	CIE/UV	.....	4140 B–2011	D6508–15	D6508, Rev. 2.[54]
12. Cadmium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]	.....	3111 B–2011 or 3111 C–2011.	D3557–17 (A or B) ...	974.27,[3] p. 37,[9] I–3135–85[2] or I–3136–85.[2]

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods [84]	ASTM	USGS/AOAC/other
	AA furnace		3113 B–2010	D3557–17 (D)	I–4138–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–1472–85 [2] or I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4472–97.[81]
	DCP [36]			D4190–15	See footnote.[34]
	Voltammetry [11]			D3557–17 (C).	
	Colorimetric (Dithizone)		3500–Cd–D–1990.		
13. Calcium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011	D511–14 (B)	I–3152–85.[2]
	ICP/AES	200.5, Rev 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011		I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14.[3]
	DCP				See footnote.[34]
	Titrimetric (EDTA)		3500-Ca B–2011	D511–14 (A).	
	Ion Chromatography			D6919–17.	
14. Carbonaceous biochemical oxygen demand ($CBOD_5$), mg/L[12].	Dissolved Oxygen Depletion with nitrification inhibitor.		5210 B–2016 [85]		See footnote.[35 63]
15. Chemical oxygen demand (COD), mg/L.	Titrimetric	410.3 (Rev. 1978) [1]	5220 B–2011 or C–2011.	D1252–06(12) (A)	973.46,[3] p. 17,[9] I–3560–85.[2]
	Spectrophotometric, manual or automatic	410.4, Rev. 2.0 (1993).	5220 D–2011	D1252–06(12) (B)	See footnotes.[13 14 83], I–3561–85.[2]
16. Chloride, mg/L	Titrimetric: (silver nitrate)		4500–Cl–B–2011	D512–12 (B)	I–1183–85.[2]
	(Mercuric nitrate)		4500–Cl–C–2011	D512–12 (A)	973.51,[3] I–1184–85.[2]
	Colorimetric: manual				I–1187–85.[2]
	Automated (ferricyanide)		4500–Cl–E–2011		I–2187–85.[2]
	Potentiometric Titration		4500–Cl–D–2011.		
	Ion Selective Electrode			D512–12 (C).	
	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1, Rev 1.0 (1997).	4110 B–2011 or 4110 C–2011.	D4327–17	993.30,[3] I–2057–90.[51]
	CIE/UV		4140 B–2011	D6508–15	D6508, Rev. 2.[54]
17. Chlorine-Total residual, mg/L.	Amperometric direct		4500–Cl D–2011	D1253–14.	
	Amperometric direct (low level)		4500-Cl E–2011.		
	Iodometric direct		4500-Cl B–2011.		
	Back titration ether end-point [15]		4500-Cl C–2011.		
	DPD–FAS		4500–Cl F–2011.		
	Spectrophotometric, DPD		4500–Cl G–2011.		
	Electrode				See footnote.[16]
17A. Chlorine-Free Available, mg/L.	Amperometric direct		4500–Cl D–2011	D1253–14.	
	Amperometric direct (low level)		4500–Cl E–2011.		
	DPD–FAS		4500-Cl F–2011.		
	Spectrophotometric, DPD		4500-Cl G–2011.		
18. Chromium VI dissolved, mg/L.	0.45-micron filtration followed by any of the following:				
	AA chelation-extraction		3111 C–2011		I–1232–85.[2]
	Ion Chromatography	218.6, Rev. 3.3 (1994).	3500-Cr C–2011	D5257–17	993.23.[3]
	Colorimetric (diphenyl-carbazide)		3500–Cr B–2011	D1687–17 (A)	I–1230–85.[2]
19. Chromium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]		3111 B–2011	D1687–17 (B)	974.27,[3] I–3236–85.[2]
	AA chelation-extraction		3111 C–2011.		
	AA furnace		3113 B–2010	D1687–17 (C)	I–3233–93.[46]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003),[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12.	
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4020–05 [70] I–4472–97.[81]
	DCP [36]			D4190–15	See footnote.[34]
	Colorimetric (diphenyl-carbazide)		3500–Cr B–2011.		
20. Cobalt—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011 or 3111 C–2011.	D3558–15 (A or B)	p. 37,[9] I–3239–85.[2]
	AA furnace		3113 B–2010	D3558–15 (C)	I–4243–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES	200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods [84]	ASTM	USGS/AOAC/other
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4020–05 [70] I–4472–97.[81]
	DCP			D4190–15	See footnote.[34]
21. Color, platinum cobalt units or dominant wavelength, hue, luminance purity	Colorimetric (ADMI)		2120 F–2011 [78].		
	Platinum cobalt visual comparison		2120 B–2011		I–1250–85.[2]
	Spectrophotometric				See footnote [18]
22. Copper—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]		3111 B–2011 or 3111 C–2011.	D1688–17 (A or B)	974.27,[3] p. 37,[9] I–3270–85 [2] or I–3271–85.[2]
	AA furnace		3113 B–2010	D1688–17 (C)	I–4274–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003); [68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4020–05,[70], I–4472–97.[81]
	DCP [36]			D4190–15	See footnote.[34]
	Colorimetric (Neocuproine)		3500-Cu B–2011.		
	Colorimetric (Bathocuproine)		3500-Cu C–2011		See footnote.[19]
23. Cyanide—Total, mg/L.	Automated UV digestion/distillation and Colorimetry.				Kelada-01.[55]
	Segmented Flow Injection, In-Line Ultraviolet Digestion, followed by gas diffusion amperometry.			D7511–12(17).	
	Manual distillation with $MgCl_2$, followed by any of the following:	335.4, Rev. 1.0 (1993) [57].	4500–CN–B–2016 and C–2016.	D2036–09(15)(A), D7284–13(17).	10–204–00–1–X.[56]
	Flow Injection, gas diffusion amperometry			D2036–09(15)(A) D7284–13(17).	
	Titrimetric		4500–CN–D–2016	D2036–09(15)(A)	p. 22.[9]
	Spectrophotometric, manual		4500–CN–E–2016	D2036–09(15)(A)	I–3300–85.[2]
	Semi-Automated [20]	335.4, Rev. 1.0 (1993) [57].	4500–CN–N–2016		10–204–00–1–X,[56] I–4302–85.[2]
	Ion Chromatography			D2036–09(15)(A).	
	Ion Selective Electrode		4500–CN–F–2016	D2036–09(15)(A).	
24. Cyanide-Available, mg/L.	Cyanide Amenable to Chlorination (CATC); Manual distillation with $MgCl_2$, followed by Titrimetric or Spectrophotometric.		4500–CN–G–2016	D2036–09(15)(B).	
	Flow injection and ligand exchange, followed by gas diffusion amperometry [59].			D6888–16	OIA–1677–09.[44]
	Automated Distillation and Colorimetry (no UV digestion).				Kelada-01.[55]
24.A Cyanide-Free, mg/L.	Flow Injection, followed by gas diffusion amperometry.			D7237–15 (A)	OIA–1677–09.[44]
	Manual micro-diffusion and colorimetry			D4282–15.	
25. Fluoride—Total, mg/L.	Manual distillation,[6] followed by any of the following:		4500–F–B–2011	D1179–16 (A).	
	Electrode, manual		4500–F–C–2011	D1179–16 (B).	
	Electrode, automated				I–4327–85.[2]
	Colorimetric, (SPADNS)		4500–F–D–2011.		
	Automated complexone		4500–F–E–2011.		
	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1, Rev 1.0 (1997).	4110 B–2011 or C–2011.	D4327–17	993.30.[3]
	CIE/UV		4140 B–2011	D6508–15	D6508, Rev. 2.[54]
26. Gold—Total,[4] mg/L	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011.		
	AA furnace	231.2 (Issued 1978) [1]	3113 B–2010.		
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14.[3]
	DCP				See footnote.[34]
27. Hardness—Total, as $CaCO_3$, mg/L.	Automated colorimetric	130.1 (Issued 1971) [1].			
	Titrimetric (EDTA)		2340 C–2011	D1126–17	973.52B [3], I–1338–85.[2]
	Ca plus Mg as their carbonates, by any approved method for Ca and Mg (See Parameters 13 and 33), provided that the sum of the lowest point of quantitation for Ca and Mg is below the NPDES permit requirement for Hardness.		2340 B–2011.		
28. Hydrogen ion (pH), pH units.	Electrometric measurement		4500–H^+ B–2011	D1293–99 (A or B)	973.41,[3] I–1586–85.[2]
	Automated electrode	150.2 (Dec. 1982) [1] ..			See footnote,[21] I–2587–85.[2]

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods [84]	ASTM	USGS/AOAC/other
29. Iridium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011.		
	AA furnace	235.2 (Issued 1978) [1].			
	ICP/MS		3125 B–2011.		
30. Iron—Total,[4] mg/L	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]		3111 B–2011 o 3111 C–2011.	D1068–15 (A)	974.27,[3] I–3381–85.[2]
	AA furnace		3113 B–2010	D1068–15 (B).	
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev. 4.2 (2003); [68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14.[3]
	DCP [36]			D4190–15	See footnote.[34]
	Colorimetric (Phenanthroline)		3500–Fe B–2011	D1068–15 (C)	See footnote.[22]
31. Kjeldahl Nitrogen [5]—Total, (as N), mg/L.	Manual digestion [20] and distillation or gas diffusion, followed by any of the following:		4500–N_{org} B–2011 or C–2011 and 4500–NH_3 B–2011.	D3590–17 (A)	I–4515–91.[45]
	Titration		4500–NH_3 C–2011		973.48.[3]
	Nesslerization			D1426–15 (A).	
	Electrode		4500–NH_3 D–2011 or E–2011.	D1426–15 (B).	
	Semi-automated phenate	350.1, Rev. 2.0 (1993).	4500–NH_3 G–2011 4500–NH_3 H–2011.		
	Manual phenate, salicylate, or other substituted phenols in Berthelot reaction based methods.		4500–NH_3 F–2011		See footnote.[60]
	Automated gas diffusion, followed by conductivity cell analysis.				Timberline Ammonia-001.[74]
	Automated gas diffusion followed by fluorescence detector analysis.				FIAlab 100.[82]
	Automated Methods for TKN that do not require manual distillation				
	Automated phenate, salicylate, or other substituted phenols in Berthelot reaction based methods colorimetric (auto digestion and distillation).	351.1 (Rev. 1978) [1]			I–4551–78.[8]
	Semi-automated block digestor colorimetric (distillation not required).	351.2, Rev. 2.0 (1993).	4500–N_{org} D–2011	D3590–17 (B)	I–4515–91 [45]
	Block digester, followed by Auto distillation and Titration.				See footnote.[39]
	Block digester, followed by Auto distillation and Nesslerization.				See footnote.[40]
	Block Digester, followed by Flow injection gas diffusion (distillation not required).				See footnote.[41]
	Digestion with peroxdisulfate, followed by Spectrophotometric (2,6-dimethyl phenol).				Hach 10242.[76]
	Digestion with persulfate, followed by Colorimetric.				NCASI TNTP W10900.[77]
32. Lead—Total,[4] mg/L	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]		3111 B–2011 or 3111 C–2011.	D3559–15 (A or B)	974.27,[3] I–3399–85.[2]
	AA furnace		3113 B–2010	D3559–15 (D)	I–4403–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev. 4.2 (2003); [68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4472–97.[81]
	DCP [36]			D4190–15	See footnote.[34]
	Voltammetry [11]			D3559–15 (C).	
	Colorimetric (Dithizone)		3500–Pb B–2011.		
33. Magnesium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011	D511–14 (B)	974.27,[3] I–3447–85.[2]
	ICP/AES	200.5, Rev. 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14.[3]
	DCP				See footnote.[34]
	Ion Chromatography			D6919–17.	
34. Manganese—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods [84]	ASTM	USGS/AOAC/other
	AA direct aspiration [36]		3111 B–2011	D858–17 (A or B)	974.27,[3] I–3454–85.[2]
	AA furnace		3113 B–2010	D858–17 (C).	
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev. 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4472–97.[81]
	DCP [36]			D4190–15	See footnote.[34]
	Colorimetric (Persulfate)		3500–Mn B–2011		920.203.[3]
	Colorimetric (Periodate)				See footnote.[23]
35. Mercury—Total, mg/L.	Cold vapor, Manual	245.1, Rev. 3.0 (1994).	3112 B–2011	D3223–17	977.22,[3] I–3462–85.[2]
	Cold vapor, Automated	245.2 (Issued 1974) [1].			
	Cold vapor atomic fluorescence spectrometry (CVAFS).	245.7 Rev. 2.0 (2005) [17].			I–4464–01.[71]
	Purge and Trap CVAFS	1631E [43].			
36. Molybdenum—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 D–2011		I–3490–85.[2]
	AA furnace		3113 B–2010		I–3492–96.[47]
	ICP/AES	200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4472–97.[81]
	DCP				See footnote.[34]
37. Nickel—Total,[4] mg/L	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]		3111 B–2011 or 3111 C–2011.	D1886–14 (A or B)	I–3499–85 [2]
	AA furnace		3113 B–2010	D1886–14 (C)	I–4503–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev. 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4020–05 [70] I–4472–97.[81]
	DCP [36]			D4190–15	See footnote.[34]
38. Nitrate (as N), mg/L	Ion Chromatography	300.0, Rev. 2.1 (1993) and 300.1, Rev. 1.0 (1997).	4110 B–2011 or C–2011.	D4327–17	993.30.[3]
	CIE/UV		4140 B–2011	D6508–15	D6508, Rev. 2.[54]
	Ion Selective Electrode		4500–NO_3 D–2016.		
	Colorimetric (Brucine sulfate)	352.1 (Issued 1971) [1]			973.50,[3] 419D[1 thnsp;7], p. 28.[9]
	Spectrophotometric (2,6-dimethylphenol)				Hach 10206 [75]
	Nitrate-nitrite N minus Nitrite N (See parameters 39 and 40).				
39. Nitrate-nitrite (as N), mg/L.	Cadmium reduction, Manual		4500–NO_3–E–2016	D3867–16 (B).	
	Cadmium reduction, Automated	353.2, Rev. 2.0 (1993).	4500–NO_3–F–2016 4500–NO_3–I–2016.	D3867–16 (A)	I–2545–90.[51]
	Automated hydrazine		4500–NO_3–H–2016.		
	Reduction/Colorimetric				See footnote.[62]
	Ion Chromatography	300.0, Rev. 2.1 (1993) and 300.1, Rev. 1.0 (1997).	4110 B–2011 or C–2011.	D4327–17	993.30.[3]
	CIE/UV		4140 B–2011	D6508–15	D6508, Rev. 2.[54]
	Enzymatic reduction, followed by automated colorimetric determination.			D7781–14	I–2547–11.[72] I–2548–11.[72] N07–0003.[73]
	Enzymatic reduction, followed by manual colorimetric determination.		4500–NO_3–J–2018.		
	Spectrophotometric (2,6-dimethylphenol)				Hach 10206.[75]
40. Nitrite (as N), mg/L	Spectrophotometric: Manual		4500–NO_2–B–2011		See footnote.[25]
	Automated (Diazotization)				I–4540–85,[2] See footnote.[62] I–2540–90.[80]
	Automated (*bypass cadmium reduction)	353.2, Rev. 2.0 (1993).	4500–NO_3–F–2016 4500–NO_3–I–2016.	D3867–16 (A)	I–4545–85.[2]
	Manual (*bypass cadmium or enzymatic reduction).		4500–NO_3– E–2016, 4500–NO_3–J–2018.	D3867–16 (B).	
	Ion Chromatography	300.0, Rev. 2.1 (1993) and 300.1, Rev. 1.0 (1997).	4110 B–2011 or C–2011.	D4327–17	993.30.[3]
	CIE/UV		4140 B–2011	D6508–15	D6508, Rev. 2.[54]
	Automated (*bypass Enzymatic reduction)			D7781–14	I–2547–11 [72] I–2548–11 [72] N07–0003.[73]

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods [84]	ASTM	USGS/AOAC/other
41. Oil and grease—Total recoverable, mg/L.	Hexane extractable material (HEM): *n*-Hexane extraction and gravimetry.	1664 Rev. A; 1664 Rev. B [42].	5520 B–2011 [38].		
	Silica gel treated HEM (SGT–HEM): Silica gel treatment and gravimetry.	1664 Rev. A; 1664 Rev. B [42].	5520 B–2011 [38] and 5520 F–2011 [38].		
42. Organic carbon—Total (TOC), mg/L.	Combustion		5310 B–2014	D7573–09(17)	973.47,[3] p. 14.[24]
	Heated persulfate or UV persulfate oxidation.		5310 C–2014 5310 D–2011.	D4839–03(17)	973.47,[3,] p. 14.[24]
43. Organic nitrogen (as N), mg/L.	Total Kjeldahl N (Parameter 31) minus ammonia N (Parameter 4).				
44. Ortho-phosphate (as P), mg/L.	Ascorbic acid method:				
	Automated	365.1, Rev. 2.0 (1993).	4500–P F–2011 or G–2011.		973.56,[3] I–4601–85,[2] I–2601–90.[80]
	Manual, single-reagent		4500–P E–2011	D515–88 (A)	973.55.[3]
	Manual, two-reagent	365.3 (Issued 1978) [1].			
	Ion Chromatography	300.0, Rev. 2.1 (1993) and 300.1, Rev. 1.0 (1997).	4110 B–2011 or C–2011.	D4327–17	993.30.[3]
	CIE/UV		4140 B–2011	D6508–15	D6508, Rev. 2.[54]
45. Osmium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 D–2011.		
	AA furnace	252.2 (Issued 1978) [1].			
46. Oxygen, dissolved, mg/L.	Winkler (Azide modification)		4500–O (B–F)–2016	D888–12 (A)	973.45B,[3] I–1575–78.[8]
	Electrode		4500–O G–2016	D888–12 (B)	I–1576–78.[8]
	Luminescence-Based Sensor		4500–O H–2016	D888–12 (C)	See footnote.[63] See footnote.[64]
47. Palladium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011.		
	AA furnace	253.2 (Issued 1978) [1].			
	ICP/MS		3125 B–2011.		
	DCP				See footnote.[34]
48. Phenols, mg/L	Manual distillation,[26] followed by any of the following:	420.1 (Rev. 1978) [1] ..	5530 B–2010	D1783–01(12).	
	Colorimetric (4AAP) manual	420.1 (Rev. 1978) [1] ..	5530 D–2010 [27]	D1783–01(12) (A or B).	
	Automated colorimetric (4AAP)	420.4 Rev. 1.0 (1993).			
49. Phosphorus (elemental), mg/L.	Gas-liquid chromatography				See footnote.[28]
50. Phosphorus—Total, mg/L.	Digestion,[20] followed by any of the following:		4500–P B (5)–2011 ..		973.55.[3]
	Manual	365.3 (Issued 1978) [1]	4500–P E–2011	D515–88 (A).	
	Automated ascorbic acid reduction	365.1 Rev. 2.0 (1993).	4500–P (F–H)–2011		973.56,[3] I–4600–85.[2]
	ICP/AES [4 36]	200.7, Rev. 4.4 (1994).	3120 B–2011		I–4471–97.[50]
	Semi-automated block digestor (TKP digestion).	365.4 (Issued 1974) [1]		D515–88 (B)	I–4610–91.[48]
	Digestion with persulfate, followed by Colorimetric.				NCASI TNTP W10900.[77]
51. Platinum—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011.		
	AA furnace	255.2 (Issued 1978) [1].			
	ICP/MS		3125 B–2011.		
	DCP				See footnote.[34]
52. Potassium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011		973.53,[3] I–3630–85.[2]
	ICP/AES	200.7, Rev. 4.4 (1994).	3120 B–2011.		
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14.[3]
	Flame photometric		3500–K B–2011.		
	Electrode		3500–K C–2011.		
	Ion Chromatography			D6919–17.	
53. Residue—Total, mg/L.	Gravimetric, 103–105°		2540 B–2015		I–3750–85.[2]
54. Residue—filterable, mg/L.	Gravimetric, 180°		2540 C–2015	D5907–13	I–1750–85.[2]
55. Residue—non-filterable (TSS), mg/L.	Gravimetric, 103–105° post-washing of residue.		2540 D–2015	D5907–13	I–3765–85.[2]

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods [84]	ASTM	USGS/AOAC/other
56. Residue—settleable, ml/L.	Volumetric (Imhoff cone), or gravimetric		2540 F–2015.		
57. Residue—Volatile, mg/L.	Gravimetric, 550°	160.4 (Issued 1971) [1]	2540 E–2015		I–3753–85.[2]
58. Rhodium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration, or		3111 B–2011.		
	AA furnace	265.2 (Issued 1978) [1].			
	ICP/MS		3125 B–2011.		
59. Ruthenium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration, or		3111 B–2011.		
	AA furnace	267.2 [1].			
	ICP/MS		3125 B–2011.		
60. Selenium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA furnace		3113 B–2010	D3859–15 (B)	I–4668–98.[49]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12.	
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4020–05 [70] I–4472–97.[81]
	AA gaseous hydride		3114 B–2011, or 3114 C–2011.	D3859–15 (A)	I–3667–85.[2]
61. Silica—Dissolved,[37] mg/L.	0.45-micron filtration followed by any of the following:				
	Colorimetric, Manual		4500-SiO_2 C–2011	D859–16	I–1700–85.[2]
	Automated (Molybdosilicate)		4500–SiO_2 E–2011 or F–2011.		I–2700–85.[2]
	ICP/AES	200.5, Rev. 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–2011		I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14.[3]
62. Silver—Total,[4] [31] mg/L.	Digestion,[4] [thnsp;29] followed by any of the following:				
	AA direct aspiration		3111 B–2011 or 3111 C–2011.		974.27,[3] p. 37,[9] I–3720–85.[2]
	AA furnace		3113 B–2010		I–4724–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES	200.5, Rev. 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4472–97.[81]
	DCP				See footnote.[34]
63. Sodium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011		973.54,[3] I–3735–85.[2]
	ICP/AES	200.5, Rev. 4.2 (2003);[68] 200.7, Rev. 4.4 (1994).	3120 B–2011		I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14.[3]
	DCP				See footnote.[34]
	Flame photometric		3500–Na B–2011.		
	Ion Chromatography			D6919–17.	
64. Specific conductance, micromhos/cm at 25 °C.	Wheatstone bridge	120.1 (Rev. 1982) [1] ..	2510 B–2011	D1125–95(99) (A)	973.40,[3] I–2781–85.[2]
65. Sulfate (as SO_4), mg/L.	Automated colorimetric	375.2, Rev. 2.0 (1993).	4500–SO_4^2 F–2011 or G–2011.		
	Gravimetric		4500–SO_4^2–C–2011 or D–2011.		925.54.[3]
	Turbidimetric		4500–SO_4^2–E–2011	D516–16.	
	Ion Chromatography	300.0, Rev. 2.1 (1993) and 300.1, Rev. 1.0 (1997).	4110 B–2011 or C–2011.	D4327–17	993, I–4020–05 [70].30[3]
	CIE/UV		4140 B–2011	D6508–15	D6508, Rev. 2.[54]
66. Sulfide (as S), mg/L	Sample Pretreatment		4500–S^{2-} B, C–2011.		
	Titrimetric (iodine)		4500–S–F–2011		I–3840–85.[2]
	Colorimetric (methylene blue)		4500–S^{2-} D–2011.		
	Ion Selective Electrode		4500–S–G–2011	D4658–15.	
67. Sulfite (as SO_3), mg/L.	Titrimetric (iodine-iodate)		4500–SO_3^2–B–2011.		
68. Surfactants, mg/L ..	Colorimetric (methylene blue)		5540 C–2011	D2330–02.	

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods [84]	ASTM	USGS/AOAC/other
69. Temperature, °C	Thermometric		2550 B–2010		See footnote.[32]
70. Thallium-Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011.		
	AA furnace	279.2 (Issued 1978) [1]	3113 B–2010.		
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES	200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12.	
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4471–97 [50] I–4472–97.[81]
71. Tin-Total,[4] mg/L	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–2011		I–3850–78.[8]
	AA furnace		3113 B–2010.		
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES	200.5, Rev. 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).			
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14.[3]
72. Titanium-Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 D–2011.		
	AA furnace	283.2 (Issued 1978) [1].			
	ICP/AES	200.7, Rev. 4.4 (1994).			
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14.[3]
	DCP				See footnote.[34]
73. Turbidity, NTU [53] ...	Nephelometric	180.1, Rev. 2.0 (1993).	2130 B–2011	D1889–00	I–3860–85[2] See footnote.[65] See footnote.[66] See footnote.[67]
74. Vanadium-Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 D–2011.		
	AA furnace		3113 B–2010	D3373–17.	
	ICP/AES	200.5, Rev. 4.2 (2003); [68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97 [50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4020–05.[70]
	DCP			D4190–15	See footnote.[34]
	Colorimetric (Gallic Acid)		3500–V B–2011.		
75. Zinc-Total,[4] mg/L ...	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]		3111 B–2011 or 3111 C–2011.	D1691–17 (A or B)	974.27,[3] p. 37,[9] I–3900–85.[2]
	AA furnace	289.2 (Issued 1978) [1].			
	ICP/AES [36]	200.5, Rev. 4.2 (2003); [68] 200.7, Rev. 4.4 (1994).	3120 B–2011	D1976–12	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2011	D5673–16	993.14,[3] I–4020–05 [70] I–4472–97.[81]
	DCP [36]			D4190–15	See footnote.[34]
	Colorimetric (Zincon)		3500 Zn B–2011		See footnote.[33]
76. Acid Mine Drainage		1627 [69].			

Table IB Notes:

[1] Methods for Chemical Analysis of Water and Wastes, EPA–600/4–79–020. Revised March 1983 and 1979, where applicable. U.S. EPA.

[2] Methods for Analysis of Inorganic Substances in Water and Fluvial Sediments, Techniques of Water-Resource Investigations of the U.S. Geological Survey, Book 5, Chapter A1., unless otherwise stated. 1989. USGS.

[3] Official Methods of Analysis of the Association of Official Analytical Chemists, Methods Manual, Sixteenth Edition, 4th Revision, 1998. AOAC International.

[4] For the determination of total metals (which are equivalent to total recoverable metals) the sample is not filtered before processing. A digestion procedure is required to solubilize analytes in suspended material and to break down organic-metal complexes (to convert the analyte to a detectable form for colorimetric analysis). For non-platform graphite furnace atomic absorption determinations, a digestion using nitric acid (as specified in Section 4.1.3 of Methods for Chemical Analysis of Water and Wastes) is required prior to analysis. The procedure used should subject the sample to gentle acid refluxing, and at no time should the sample be taken to dryness. For direct aspiration flame atomic absorption (FLAA) determinations, a combination acid (nitric and hydrochloric acids) digestion is preferred, prior to analysis. The approved total recoverable digestion is described as Method 200.2 in Supplement I of ''Methods for the Determination of Metals in Environmental Samples'' EPA/600R–94/111, May, 1994, and is reproduced in EPA Methods 200.7, 200.8, and 200.9 from the same Supplement. However, when using the gaseous hydride technique or for the determination of certain elements such as antimony, arsenic, selenium, silver, and tin by non-EPA graphite furnace atomic absorption methods, mercury by cold vapor atomic absorption, the noble metals and titanium by FLAA, a specific or modified sample digestion procedure may be required, and, in all cases the referenced method write-up should be consulted for specific instruction and/or cautions. For analyses using inductively coupled plasma-atomic emission spectrometry (ICP–AES), the direct current plasma (DCP) technique or EPA spectrochemical techniques (platform furnace AA, ICP–AES, and ICP–MS), use EPA Method 200.2 or an approved alternate procedure (*e.g.,* CEM microwave digestion, which may be used with certain analytes as indicated in Table IB); the total recoverable digestion procedures in EPA Methods 200.7, 200.8, and 200.9 may be used for those respective methods. Regardless of the digestion procedure, the results of the analysis after digestion procedure are reported as ''total'' metals.

[5] Copper sulfate or other catalysts that have been found suitable may be used in place of mercuric sulfate.

[6] Manual distillation is not required if comparability data on representative effluent samples are on file to show that this preliminary distillation step is not necessary; however, manual distillation will be required to resolve any controversies. In general, the analytical method should be consulted regarding the need for distillation. If the method is not clear, the laboratory may compare a minimum of 9 different sample matrices to evaluate the need for distillation. For each matrix, a matrix spike and matrix spike duplicate are analyzed both with and without the distillation step (for a total of 36 samples, assuming 9 matrices). If results are comparable, the laboratory may dispense with the distillation step for future analysis. Comparable is defined as < 20% RPD for all tested matrices). Alternatively, the two populations of spike recovery percentages may be compared using a recognized statistical test.

[7] Industrial Method Number 379–75 WE Ammonia, Automated Electrode Method, Technicon Auto Analyzer II. February 19, 1976. Bran & Luebbe Analyzing Technologies Inc.

[8] The approved method is that cited in Methods for Determination of Inorganic Substances in Water and Fluvial Sediments, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A1. 1979. USGS.

[9] American National Standard on Photographic Processing Effluents. April 2, 1975. American National Standards Institute.

[10] In-Situ Method 1003–8–2009, Biochemical Oxygen Demand (BOD) Measurement by Optical Probe. 2009. In-Situ Incorporated.

[11] The use of normal and differential pulse voltage ramps to increase sensitivity and resolution is acceptable.

[12] Carbonaceous biochemical oxygen demand ($CBOD_5$) must not be confused with the traditional BOD_5 test method which measures ''total 5-day BOD.'' The addition of the nitrification inhibitor is not a procedural option but must be included to report the $CBOD_5$ parameter. A discharger whose permit requires reporting the traditional BOD_5 may not use a nitrification inhibitor in the procedure for reporting the results. Only when a discharger's permit specifically states $CBOD_5$ is required can the permittee report data using a nitrification inhibitor.

[13] OIC Chemical Oxygen Demand Method. 1978. Oceanography International Corporation.

[14] Method 8000, Chemical Oxygen Demand, Hach Handbook of Water Analysis, 1979. Hach Company.

[15] The back-titration method will be used to resolve controversy.

[16] Orion Research Instruction Manual, Residual Chlorine Electrode Model 97–70. 1977. Orion Research Incorporated. The calibration graph for the Orion residual chlorine method must be derived using a reagent blank and three standard solutions, containing 0.2, 1.0, and 5.0 mL 0.00281 N potassium iodate/100 mL solution, respectively.

[17] Method 245.7, Mercury in Water by Cold Vapor Atomic Fluorescence Spectrometry, EPA–821–R–05–001. Revision 2.0, February 2005. US EPA.

[18] National Council of the Paper Industry for Air and Stream Improvement (NCASI) Technical Bulletin 253 (1971) and Technical Bulletin 803, May 2000.

[19] Method 8506, Bicinchoninate Method for Copper, Hach Handbook of Water Analysis. 1979. Hach Company.

[20] When using a method with block digestion, this treatment is not required.

[21] Industrial Method Number 378–75WA, Hydrogen ion (pH) Automated Electrode Method, Bran & Luebbe (Technicon) Autoanalyzer II. October 1976. Bran & Luebbe Analyzing Technologies.

[22] Method 8008, 1,10-Phenanthroline Method using FerroVer Iron Reagent for Water. 1980. Hach Company.

[23] Method 8034, Periodate Oxidation Method for Manganese, Hach Handbook of Wastewater Analysis. 1979. Hach Company.

[24] Methods for Analysis of Organic Substances in Water and Fluvial Sediments, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A3, (1972 Revised 1987). 1987. USGS.

[25] Method 8507, Nitrogen, Nitrite-Low Range, Diazotization Method for Water and Wastewater. 1979. Hach Company.

[26] Just prior to distillation, adjust the sulfuric-acid-preserved sample to pH 4 with 1 + 9 NaOH.

[27] The colorimetric reaction must be conducted at a pH of 10.0 ± 0.2.

[28] Addison, R.F., and R.G. Ackman. 1970. Direct Determination of Elemental Phosphorus by Gas-Liquid Chromatography, *Journal of Chromatograph*y, 47(3):421–426.

[29] Approved methods for the analysis of silver in industrial wastewaters at concentrations of 1 mg/L and above are inadequate where silver exists as an inorganic halide. Silver halides such as the bromide and chloride are relatively insoluble in reagents such as nitric acid but are readily soluble in an aqueous buffer of sodium thiosulfate and sodium hydroxide to pH of 12. Therefore, for levels of silver above 1 mg/L, 20 mL of sample should be diluted to 100 mL by adding 40 mL each of 2 M $Na_2S_2O_3$ and NaOH. Standards should be prepared in the same manner. For levels of silver below 1 mg/L the approved method is satisfactory.

[30] The use of EDTA decreases method sensitivity. Analysts may omit EDTA or replace with another suitable complexing reagent provided that all method-specified quality control acceptance criteria are met.

[31] For samples known or suspected to contain high levels of silver (*e.g.,* in excess of 4 mg/L), cyanogen iodide should be used to keep the silver in solution for analysis. Prepare a cyanogen iodide solution by adding 4.0 mL of concentrated NH_4OH, 6.5 g of KCN, and 5.0 mL of a 1.0 N solution of I_2 to 50 mL of reagent water in a volumetric flask and dilute to 100.0 mL. After digestion of the sample, adjust the pH of the digestate to >7 to prevent the formation of HCN under acidic conditions. Add 1 mL of the cyanogen iodide solution to the sample digestate and adjust the volume to 100 mL with reagent water (NOT acid). If cyanogen iodide is added to sample digestates, then silver standards must be prepared that contain cyanogen iodide as well. Prepare working standards by diluting a small volume of a silver stock solution with water and adjusting the pH>7 with NH_4OH. Add 1 mL of the cyanogen iodide solution and let stand 1 hour. Transfer to a 100-mL volumetric flask and dilute to volume with water.

[32] ''Water Temperature-Influential Factors, Field Measurement and Data Presentation,'' Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 1, Chapter D1. 1975. USGS.

[33] Method 8009, Zincon Method for Zinc, Hach Handbook of Water Analysis, 1979. Hach Company.

[34] Method AES0029, Direct Current Plasma (DCP) Optical Emission Spectrometric Method for Trace Elemental Analysis of Water and Wastes. 1986-Revised 1991. Thermo Jarrell Ash Corporation.

[35] In-Situ Method 1004–8–2009, Carbonaceous Biochemical Oxygen Demand (CBOD) Measurement by Optical Probe. 2009. In-Situ Incorporated.

[36] Microwave-assisted digestion may be employed for this metal, when analyzed by this methodology. Closed Vessel Microwave Digestion of Wastewater Samples for Determination of Metals. April 16, 1992. CEM Corporation

[37] When determining boron and silica, only plastic, PTFE, or quartz laboratory ware may be used from start until completion of analysis.

[38] Only use *n*-hexane (*n*-Hexane—85% minimum purity, 99.0% min. saturated C6 isomers, residue less than 1 mg/L) extraction solvent when determining Oil and Grease parameters—Hexane Extractable Material (HEM), or Silica Gel Treated HEM (analogous to EPA Methods 1664 Rev. A and 1664 Rev. B). Use of other extraction solvents is prohibited.

[39] Method PAI–DK01, Nitrogen, Total Kjeldahl, Block Digestion, Steam Distillation, Titrimetric Detection. Revised December 22, 1994. OI Analytical.

[40] Method PAI–DK02, Nitrogen, Total Kjeldahl, Block Digestion, Steam Distillation, Colorimetric Detection. Revised December 22, 1994. OI Analytical.

[41] Method PAI–DK03, Nitrogen, Total Kjeldahl, Block Digestion, Automated FIA Gas Diffusion. Revised December 22, 1994. OI Analytical.

[42] Method 1664 Rev. B is the revised version of EPA Method 1664 Rev. A. U.S. EPA. February 1999, Revision A. Method 1664, *n*-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated *n*-Hexane Extractable Material (SGT–HEM; Non-polar Material) by Extraction and Gravimetry. EPA–821–R–98–002. U.S. EPA. February 2010, Revision B. Method 1664, *n*-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated *n*-Hexane Extractable Material (SGT–HEM; Non-polar Material) by Extraction and Gravimetry. EPA–821–R–10–001.

[43] Method 1631, Revision E, Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry, EPA–821–R–02–019. Revision E. August 2002, U.S. EPA. The application of clean techniques described in EPA's Method 1669: *Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels,* EPA–821–R–96–011, are recommended to preclude contamination at low-level, trace metal determinations.

[44] Method OIA–1677–09, Available Cyanide by Ligand Exchange and Flow Injection Analysis (FIA). 2010. OI Analytical.

[45] Open File Report 00–170, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Ammonium Plus Organic Nitrogen by a Kjeldahl Digestion Method and an Automated Photometric Finish that Includes Digest Cleanup by Gas Diffusion. 2000. USGS.

[46] Open File Report 93–449, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Chromium in Water by Graphite Furnace Atomic Absorption Spectrophotometry. 1993. USGS.

[47] Open File Report 97–198, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Molybdenum by Graphite Furnace Atomic Absorption Spectrophotometry. 1997. USGS.

[48] Open File Report 92–146, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Total Phosphorus by Kjeldahl Digestion Method and an Automated Colorimetric Finish That Includes Dialysis. 1992. USGS.

[49] Open File Report 98–639, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Arsenic and Selenium in Water and Sediment by Graphite Furnace-Atomic Absorption Spectrometry. 1999. USGS.

[50] Open File Report 98–165, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Elements in Whole-water Digests Using Inductively Coupled Plasma-Optical Emission Spectrometry and Inductively Coupled Plasma-Mass Spectrometry. 1998. USGS.

[51] Open File Report 93–125, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments. 1993. USGS.

[52] Unless otherwise indicated, all EPA methods, excluding EPA Method 300.1, are published in U.S. EPA. May 1994. Methods for the Determination of Metals in Environmental Samples, Supplement I, EPA/600/R–94/111; or U.S. EPA. August 1993. Methods for the Determination of Inorganic Substances in Environmental Samples, EPA/600/R–93/100. EPA Method 300.1 is U.S. EPA. Revision 1.0, 1997, including errata cover sheet April 27, 1999. Determination of Inorganic Ions in Drinking Water by Ion Chromatography.

[53] Styrene divinyl benzene beads (*e.g.,* AMCO–AEPA–1 or equivalent) and stabilized formazin (*e.g.,* Hach StablCal™ or equivalent) are acceptable substitutes for formazin.

[54] Method D6508–15, Test Method for Determination of Dissolved Inorganic Anions in Aqueous Matrices Using Capillary Ion Electrophoresis and Chromate Electrolyte. 2015. ASTM

[55] Kelada-01, Kelada Automated Test Methods for Total Cyanide, Acid Dissociable Cyanide, and Thiocyanate, EPA 821–B–01–009, Revision 1.2, August 2001. U.S. EPA. Note: A 450–W UV lamp may be used in this method instead of the 550–W lamp specified if it provides performance within the quality control (QC) acceptance criteria of the method in a given instrument. Similarly, modified flow cell configurations and flow conditions may be used in the method, provided that the QC acceptance criteria are met.

[56] QuikChem Method 10–204–00–1–X, Digestion and Distillation of Total Cyanide in Drinking and Wastewaters using MICRO DIST and Determination of Cyanide by Flow Injection Analysis. Revision 2.2, March 2005. Lachat Instruments.

[57] When using sulfide removal test procedures described in EPA Method 335.4–1, reconstitute particulate that is filtered with the sample prior to distillation.

[58] Unless otherwise stated, if the language of this table specifies a sample digestion and/or distillation ''followed by'' analysis with a method, approved digestion and/or distillation are required prior to analysis.

[59] Samples analyzed for available cyanide using OI Analytical method OIA–1677–09 or ASTM method D6888–16 that contain particulate matter may be filtered only after the ligand exchange reagents have been added to the samples, because the ligand exchange process converts complexes containing available cyanide to free cyanide, which is not removed by filtration. Analysts are further cautioned to limit the time between the addition of the ligand exchange reagents and sample filtration to no more than 30 minutes to preclude settling of materials in samples.

[60] Analysts should be aware that pH optima and chromophore absorption maxima might differ when phenol is replaced by a substituted phenol as the color reagent in Berthelot Reaction (''phenol-hypochlorite reaction'') colorimetric ammonium determination methods. For example, when phenol is used as the color reagent, pH optimum and wavelength of maximum absorbance are about 11.5 and 635 nm, respectively—see, Patton, C.J. and S.R. Crouch. March 1977. *Anal. Chem.* 49:464–469. These reaction parameters increase to pH > 12.6 and 665 nm when salicylate is used as the color reagent—see, Krom, M.D. April 1980. *The Analyst* 105:305–316.

[61] If atomic absorption or ICP instrumentation is not available, the aluminon colorimetric method detailed in the 19th Edition of *Standard Methods for the Examination of Water and Wastewater* may be used. This method has poorer precision and bias than the methods of choice.

[62] Easy (1-Reagent) Nitrate Method, Revision November 12, 2011. Craig Chinchilla.

[63] Hach Method 10360, Luminescence Measurement of Dissolved Oxygen in Water and Wastewater and for Use in the Determination of BOD_5 and $CBOD_5$. Revision 1.2, October 2011. Hach Company. This method may be used to measure dissolved oxygen when performing the methods approved in Table IB for measurement of biochemical oxygen demand (BOD) and carbonaceous biochemical oxygen demand (CBOD).

[64] In-Situ Method 1002–8–2009, Dissolved Oxygen (DO) Measurement by Optical Probe. 2009. In-Situ Incorporated.

[65] Mitchell Method M5331, Determination of Turbidity by Nephelometry. Revision 1.0, July 31, 2008. Leck Mitchell.

[66] Mitchell Method M5271, Determination of Turbidity by Nephelometry. Revision 1.0, July 31, 2008. Leck Mitchell.

[67] Orion Method AQ4500, Determination of Turbidity by Nephelometry. Revision 5, March 12, 2009. Thermo Scientific.

[68] EPA Method 200.5, Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma-Atomic Emission Spectrometry, EPA/600/R–06/115. Revision 4.2, October 2003. U.S. EPA.

[69] Method 1627, Kinetic Test Method for the Prediction of Mine Drainage Quality, EPA–821–R–09–002. December 2011. U.S. EPA.

[70] Techniques and Methods Book 5–B1, Determination of Elements in Natural-Water, Biota, Sediment and Soil Samples Using Collision/Reaction Cell Inductively Coupled Plasma-Mass Spectrometry, Chapter 1, Section B, Methods of the National Water Quality Laboratory, Book 5, Laboratory Analysis, 2006. USGS.

[71] Water-Resources Investigations Report 01–4132, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Organic Plus Inorganic Mercury in Filtered and Unfiltered Natural Water with Cold Vapor-Atomic Fluorescence Spectrometry, 2001. USGS.

[72] USGS Techniques and Methods 5–B8, Chapter 8, Section B, Methods of the National Water Quality Laboratory Book 5, Laboratory Analysis, 2011 USGS.

[73] NECi Method N07–0003, ''Nitrate Reductase Nitrate-Nitrogen Analysis,'' Revision 9.0, March 2014, The Nitrate Elimination Co., Inc.

[74] Timberline Instruments, LLC Method Ammonia-001, ''Determination of Inorganic Ammonia by Continuous Flow Gas Diffusion and Conductivity Cell Analysis,'' June 2011, Timberline Instruments, LLC.

[75] Hach Company Method 10206, ''Spectrophotometric Measurement of Nitrate in Water and Wastewater,'' Revision 2.1, January 2013, Hach Company.

[76] Hach Company Method 10242, ''Simplified Spectrophotometric Measurement of Total Kjeldahl Nitrogen in Water and Wastewater,'' Revision 1.1, January 2013, Hach Company.

[77] National Council for Air and Stream Improvement (NCASI) Method TNTP–W10900, ''Total (Kjeldahl) Nitrogen and Total Phosphorus in Pulp and Paper Biologically Treated Effluent by Alkaline Persulfate Digestion,'' June 2011, National Council for Air and Stream Improvement, Inc.

[78] The pH adjusted sample is to be adjusted to 7.6 for NPDES reporting purposes.

[79] I–2057–85 U.S. Geological Survey Techniques of Water-Resources Investigations, Book 5, Chap. A11989, Methods for Determination of Inorganic Substances in Water and Fluvial Sediments, 1989.

[80] Methods I–2522–90, I–2540–90, and I–2601–90 U.S. Geological Survey Open-File Report 93–125, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory–Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments, 1993.

[81] Method I–1472–97, U.S. Geological Survey Open-File Report 98–165, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory–Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments, 1998.

[82] FIAlab Instruments, Inc. Method FIAlab 100, ''Determination of Inorganic Ammonia by Continuous Flow Gas Diffusion and Fluorescence Detector Analysis'', April 4, 2018, FIAlab Instruments, Inc.

[83] MACHEREY–NAGEL GmbH and Co. Method 036/038 NANOCOLOR® COD LR/HR, ''Spectrophotometric Measurement of Chemical Oxygen Demand in Water and Wastewater'', Revision 1.5, May 2018, MACHEREY–NAGEL GmbH and Co. KG.

[84] Please refer to the following applicable Quality Control Sections: Part 2000 Methods, Physical and Aggregate Properties 2020 (2017); Part 3000 Methods, Metals, 3020 (2017); Part 4000 Methods, Inorganic Nonmetallic Constituents, 4020 (2014); Part 5000 Methods, and Aggregate Organic Constituents, 5020 (2017). These Quality Control Standards are available for download at *www.standardmethods.org* at no charge.

[85] Each laboratory may establish its own control limits by performing at least 25 glucose-glutamic acid (GGA) checks over several weeks or months and calculating the mean and standard deviation. The laboratory may then use the mean ± 3 standard deviations as the control limit for future GGA checks. However, GGA acceptance criteria can be no wider than 198 ± 30.5 mg/L for BOD_5. GGA acceptance criteria for CBOD must be either 198 ± 30.5 mg/L, or the lab may develop control charts under the following conditions:

- Dissolved oxygen uptake from the seed contribution is between 0.6–1.0 mg/L.
- Control charts are performed on at least 25 GGA checks with three standard deviations from the derived mean.
- The RSD must not exceed 7.5%.
- Any single GGA value cannot be less than 150 mg/L or higher than 250 mg/L.

TABLE IC—LIST OF APPROVED TEST PROCEDURES FOR NON-PESTICIDE ORGANIC COMPOUNDS

Parameter [1]	Method	EPA [2 7]	Standard methods	ASTM	Other
1. Acenaphthene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
2. Acenaphthylene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
3. Acrolein	GC	603.			
	GC/MS	624.1,[4] 1624B.			
4. Acrylonitrile	GC	603.			
	GC/MS	624.1,[4] 1624B			O–4127–96. [13]
5. Anthracene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
6. Benzene	GC	602	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
7. Benzidine	Spectrophotometric				See footnote [3], p.1.
	GC/MS	625.1,[5] 1625B	6410 B–2000.		
	HPLC	605.			
8. Benzo(a)anthracene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	

TABLE IC—LIST OF APPROVED TEST PROCEDURES FOR NON-PESTICIDE ORGANIC COMPOUNDS—Continued

Parameter [1]	Method	EPA [2 7]	Standard methods	ASTM	Other
9. Benzo(a)pyrene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
10. Benzo(b)fluoranthene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
11. Benzo(g,h,i)perylene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
12. Benzo(k)fluoranthene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
13. Benzyl chloride	GC				See footnote [3], p. 130.
	GC/MS				See footnote [6], p. S102.
14. Butyl benzyl phthalate	GC	606.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
15. bis(2-Chloroethoxy) methane	GC	611.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
16. bis(2-Chloroethyl) ether	GC	611.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
17. bis(2-Ethylhexyl) phthalate	GC	606.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
18. Bromodichloromethane	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
19. Bromoform	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
20. Bromomethane	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
21. 4-Bromophenyl phenyl ether	GC	611.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
22. Carbon tetrachloride	GC	601	6200 C–2011		See footnote [3], p. 130.
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
23. 4-Chloro-3-methyl phenol	GC	604	6420 B–2000.		
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
24. Chlorobenzene	GC	601, 602	6200 C–2011		See footnote [3], p. 130.
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
25. Chloroethane	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96.[13]
26. 2-Chloroethylvinyl ether	GC	601.			
	GC/MS	624.1, 1624B.			
27. Chloroform	GC	601	6200 C–2011		See footnote [3], p. 130.
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
28. Chloromethane	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
29. 2-Chloronaphthalene	GC	612.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
30. 2-Chlorophenol	GC	604	6420 B–2000.		
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
31. 4-Chlorophenyl phenyl ether	GC	611.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
32. Chrysene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
33. Dibenzo(a,h)anthracene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
34. Dibromochloromethane	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
35. 1,2-Dichlorobenzene	GC	601, 602	6200 C–2011.		
	GC/MS	624.1, 1625B	6200 B–2011		See footnote, [9] p. 27; O–4127–96,[13] O–4436–16.[14]
36. 1,3-Dichlorobenzene	GC	601, 602	6200 C–2011.		
	GC/MS	624.1, 1625B	6200 B–2011		See footnote [9], p. 27; O–4127–96.[13]
37. 1,4-Dichlorobenzene	GC	601, 602	6200 C–2011.		
	GC/MS	624.1, 1625B	6200 B–2011		See footnote,[9] p. 27; O–4127–96,[13] O–4436–16.[14]
38. 3,3′-Dichlorobenzidine	GC/MS	625.1, 1625B	6410 B–2000.		
	HPLC	605.			
39. Dichlorodifluoromethane	GC	601.			
	GC/MS		6200 C–2011		O–4127–96 [13], O–4436–16.[14]
40. 1,1-Dichloroethane	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
41. 1,2-Dichloroethane	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
42. 1,1-Dichloroethene	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
43. *trans*-1,2-Dichloroethene	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
44. 2,4-Dichlorophenol	GC	604	6420 B–2000..		
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.

TABLE IC—LIST OF APPROVED TEST PROCEDURES FOR NON-PESTICIDE ORGANIC COMPOUNDS—Continued

Parameter [1]	Method	EPA [2 7]	Standard methods	ASTM	Other
45. 1,2-Dichloropropane	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
46. *cis*-1,3-Dichloropropene	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
47. *trans*-1,3-Dichloropropene	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
48. Diethyl phthalate	GC	606.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
49. 2,4-Dimethylphenol	GC	604	6420 B–2000.		
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
50. Dimethyl phthalate	GC	606.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
51. Di-*n*-butyl phthalate	GC	606.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote,[9], p. 27.
52. Di-*n*-octyl phthalate	GC	606.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote,[9] p. 27.
53. 2, 4-Dinitrophenol	GC	604	6420 B–2000		See footnote [9], p. 27.
	GC/MS	625.1, 1625B	6410 B–2000.		
54. 2,4-Dinitrotoluene	GC	609.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
55. 2,6-Dinitrotoluene	GC	609.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
56. Epichlorohydrin	GC				See footnote [3], p. 130.
	GC/MS				See footnote [6], p. S102.
57. Ethylbenzene	GC	602	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96,[13] O–4436–16.[14]
58. Fluoranthene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
59. Fluorene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
60. 1,2,3,4,6,7,8-Heptachloro-dibenzofuran.	GC/MS	1613B.			
61. 1,2,3,4,7,8,9-Heptachloro-dibenzofuran.	GC/MS	1613B.			
62. 1,2,3,4,6,7,8-Heptachloro-dibenzo-*p*-dioxin.	GC/MS	1613B.			
63. Hexachlorobenzene	GC	612.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
64. Hexachlorobutadiene	GC	612.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote,[9] p. 27; O–4127–96.[13]
65. Hexachlorocyclopentadiene	GC	612.			
	GC/MS	625.1,[5] 1625B	6410 B–2000		See footnote,[9] p. 27; O–4127–96.[13]
66. 1,2,3,4,7,8-Hexachloro-dibenzofuran.	GC/MS	1613B.			
67. 1,2,3,6,7,8-Hexachloro-dibenzofuran.	GC/MS	1613B.			
68. 1,2,3,7,8,9-Hexachloro-dibenzofuran.	GC/MS	1613B.			
69. 2,3,4,6,7,8-Hexachloro-dibenzofuran.	GC/MS	1613B.			
70. 1,2,3,4,7,8-Hexachloro-dibenzo-*p*-dioxin.	GC/MS	1613B.			
71. 1,2,3,6,7,8-Hexachloro-dibenzo-*p*-dioxin.	GC/MS	1613B.			
72. 1,2,3,7,8,9-Hexachloro-dibenzo-*p*-dioxin.	GC/MS	1613B.			
73. Hexachloroethane	GC	612.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27; O–4127–96.[13]
74. Indeno(1,2,3-c,d) pyrene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
75. Isophorone	GC	609.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
76. Methylene chloride	GC	601	6200 C–2011		See footnote [3], p. 130.
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
77. 2-Methyl-4,6-dinitrophenol	GC	604	6420 B–2000.		
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
78. Naphthalene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005.		
79. Nitrobenzene	GC	609.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC			D4657–92 (98).	
80. 2-Nitrophenol	GC	604	6420 B–2000.		
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
81. 4-Nitrophenol	GC	604	6420 B–2000.		
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
82. N-Nitrosodimethylamine	GC	607.			

TABLE IC—LIST OF APPROVED TEST PROCEDURES FOR NON-PESTICIDE ORGANIC COMPOUNDS—Continued

Parameter [1]	Method	EPA [2 7]	Standard methods	ASTM	Other
	GC/MS	625.1,[5] 1625B	6410 B–2000		See footnote,[9] p. 27.
83. N-Nitrosodi-*n*-propylamine	GC	607.			
	GC/MS	625.1,[5] 1625B	6410 B–2000		See footnote,[9] p. 27.
84. N-Nitrosodiphenylamine	GC	607.			
	GC/MS	625.1,[5] 1625B	6410 B–2000		See footnote,[9] p. 27.
85. Octachlorodibenzofuran	GC/MS	1613B.[10]			
86. Octachlorodibenzo-*p*-dioxin	GC/MS	1613B.[10]			
87. 2,2′-oxybis(1-chloropropane) [12] [also known as bis(2-Chloro-1-methylethyl) ether].	GC	611.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
88. PCB–1016	GC	608.3			See footnote [3], p. 43; See footnote.[8]
	GC/MS	625.1	6410 B–2000.		
89. PCB–1221	GC	608.3			See footnote [3], p. 43; See footnote.[8]
	GC/MS	625.1	6410 B–2000.		
90. PCB–1232	GC	608.3			See footnote [3], p. 43; See footnote.[8]
	GC/MS	625.1	6410 B–2000.		
91. PCB–1242	GC	608.3			See footnote [3], p. 43; See footnote.[8]
	GC/MS	625.1	6410 B–2000.		
92. PCB–1248	GC	608.3			See footnote [3], p. 43; See footnote.[8]
	GC/MS	625.1	6410 B–2000.		
93. PCB–1254	GC	608.3			See footnote [3], p. 43; See footnote.[8]
	GC/MS	625.1	6410 B–2000.		
94. PCB–1260	GC	608.3			See footnote [3], p. 43; See footnote.[8]
	GC/MS	625.1	6410 B–2000.		
95. 1,2,3,7,8-Pentachloro-dibenzofuran.	GC/MS	1613B.			
96. 2,3,4,7,8-Pentachloro-dibenzofuran.	GC/MS	1613B.			
97. 1,2,3,7,8-Pentachloro-dibenzo-*p*-dioxin.	GC/MS	1613B.			
98. Pentachlorophenol	GC	604	6420 B–2000		See footnote [3], p. 140.
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
99. Phenanthrene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
100. Phenol	GC	604	6420 B–2000.		
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
101. Pyrene	GC	610.			
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2005	D4657–92 (98).	
102. 2,3,7,8-Tetrachloro-dibenzofuran	GC/MS	1613B.[10]			
103. 2,3,7,8-Tetrachloro-dibenzo-*p*-dioxin.	GC/MS	613, 625.1,[5a] 1613B.			
104. 1,1,2,2-Tetrachloroethane	GC	601	6200 C–2011		See footnote [3], p. 130.
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96.[13]
105. Tetrachloroethene	GC	601	6200 C–2011		See footnote [3], p. 130.
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
106. Toluene	GC	602	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
107. 1,2,4-Trichlorobenzene	GC	612			See footnote [3], p. 130.
	GC/MS	625.1, 1625B	6410 B–2000		See footnote,[9] p. 27; O–4127–96,[13] O–4436–16.[14]
108. 1,1,1-Trichloroethane	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
109. 1,1,2-Trichloroethane	GC	601	6200 C–2011		See footnote [3], p. 130.
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
110. Trichloroethene	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
111. Trichlorofluoromethane	GC	601	6200 C–2011.		
	GC/MS	624.1	6200 B–2011		O–4127–96.[13]
112. 2,4,6-Trichlorophenol	GC	604	6420 B–2000.		
	GC/MS	625.1, 1625B	6410 B–2000		See footnote [9], p. 27.
113. Vinyl chloride	GC	601	6200 C–2011.		
	GC/MS	624.1, 1624B	6200 B–2011		O–4127–96 [13], O–4436–16.[14]
114. Nonylphenol	GC/MS			D7065–17.	
115. Bisphenol A (BPA)	GC/MS			D7065–17.	
116. *p-tert*-Octylphenol (OP)	GC/MS			D7065–17.	
117. Nonylphenol Monoethoxylate (NP1EO).	GC/MS			D7065–17.	
118. Nonylphenol Diethoxylate (NP2EO).	GC/MS			D7065–17.	
119. Adsorbable Organic Halides (AOX).	Adsorption and Coulometric Titration.	1650.[11]			
120. Chlorinated Phenolics	In Situ Acetylation and GC/MS.	1653.[11]			

Table IC notes:
[1] All parameters are expressed in micrograms per liter (μg/L) except for Method 1613B, in which the parameters are expressed in picograms per liter (pg/L).

[2] The full text of Methods 601–613, 1613B, 1624B, and 1625B are provided at appendix A, Test Procedures for Analysis of Organic Pollutants. The standardized test procedure to be used to determine the method detection limit (MDL) for these test procedures is given at appendix B of this part, Definition and Procedure for the Determination of the Method Detection Limit. These methods are available at: *https://www.epa.gov/cwa-methods* as individual PDF files.

[3] Methods for Benzidine: Chlorinated Organic Compounds, Pentachlorophenol and Pesticides in Water and Wastewater. September 1978. U.S. EPA.

[4] Method 624.1 may be used for quantitative determination of acrolein and acrylonitrile, provided that the laboratory has documentation to substantiate the ability to detect and quantify these analytes at levels necessary to comply with any associated regulations. In addition, the use of sample introduction techniques other than simple purge-and-trap may be required. QC acceptance criteria from Method 603 should be used when analyzing samples for acrolein and acrylonitrile in the absence of such criteria in Method 624.1.

[5] Method 625.1 may be extended to include benzidine, hexachlorocyclopentadiene, N-nitrosodimethylamine, N-nitrosodi-*n*-propylamine, and N-nitrosodiphenylamine. However, when they are known to be present, Methods 605, 607, and 612, or Method 1625B, are preferred methods for these compounds.

[5a] Method 625.1 screening only.

[6] Selected Analytical Methods Approved and Cited by the United States Environmental Protection Agency, Supplement to the 15th Edition of *Standard Methods for the Examination of Water and Wastewater.* 1981. American Public Health Association (APHA).

[7] Each analyst must make an initial, one-time demonstration of their ability to generate acceptable precision and accuracy with Methods 601–603, 1624B, and 1625B in accordance with procedures in Section 8.2 of each of these methods. Additionally, each laboratory, on an on-going basis must spike and analyze 10% (5% for Methods 624.1 and 625.1 and 100% for methods 1624B and 1625B) of all samples to monitor and evaluate laboratory data quality in accordance with Sections 8.3 and 8.4 of these methods. When the recovery of any parameter falls outside the quality control (QC) acceptance criteria in the pertinent method, analytical results for that parameter in the unspiked sample are suspect. The results should be reported but cannot be used to demonstrate regulatory compliance. If the method does not contain QC acceptance criteria, control limits of ± three standard deviations around the mean of a minimum of five replicate measurements must be used. These quality control requirements also apply to the Standard Methods, ASTM Methods, and other methods cited.

[8] Organochlorine Pesticides and PCBs in Wastewater Using Empore™ Disk. Revised October 28, 1994. 3M Corporation.

[9] Method O–3116–87 is in Open File Report 93–125, Methods of Analysis by U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments. 1993. USGS.

[10] Analysts may use Fluid Management Systems, Inc. Power-Prep system in place of manual cleanup provided the analyst meets the requirements of Method 1613B (as specified in Section 9 of the method) and permitting authorities. Method 1613, Revision B, Tetra- through Octa-Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS. Revision B, 1994. U.S. EPA. The full text of this method is provided in appendix A to this part and at *https://www.epa.gov/cwa-methods/approved-cwa-test-methods-organic-compounds*.

[11] Method 1650, Adsorbable Organic Halides by Adsorption and Coulometric Titration. Revision C, 1997 U.S. EPA. Method 1653, Chlorinated Phenolics in Wastewater by In Situ Acetylation and GCMS. Revision A, 1997 U.S. EPA. The full text for both of these methods is provided at appendix A in part 430 of this chapter, The Pulp, Paper, and Paperboard Point Source Category.

[12] The compound was formerly inaccurately labeled as 2,2′-oxybis(2-chloropropane) and bis(2-chloroisopropyl) ether. Some versions of Methods 611, and 1625 inaccurately list the analyte as "bis(2-chloroisopropyl)ether," but use the correct CAS number of 108–60–1.

[13] Method O–4127–96, U.S. Geological Survey Open-File Report 97–829, Methods of analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of 86 volatile organic compounds in water by gas chromatography/mass spectrometry, including detections less than reporting limits,1998, USGS.

[14] Method O–4436–16 U.S. Geological Survey Techniques and Methods, book 5, chap. B12, Determination of heat purgeable and ambient purgeable volatile organic compounds in water by gas chromatography/mass spectrometry, 2016, USGS.

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TABLE IH—LIST OF APPROVED MICROBIOLOGICAL METHODS FOR AMBIENT WATER

Parameter and units	Method [1]	EPA	Standard methods	AOAC, ASTM, USGS	Other
Bacteria					
1. Coliform (fecal), number per 100 mL.	Most Probable Number (MPN), 5 tube, 3 dilution, or.	p. 132 [3]	9221 E–2014, 9221 F–2014 [32].		
	Membrane filter (MF) [2], single step	p. 124 [3]	9222 D–2015 [26]	B–0050–85 [4].	
2. Coliform (total), number per 100 mL.	MPN, 5 tube, 3 dilution, or	p. 114 [3]	9221 B–2014	B–0025–85 [4].	
	MF [2], single step or two step	p. 108 [3]	9222 B–2015 [27]		
	MF [2] with enrichment	p. 111 [3]	9222 B– 2015 [27].		
3. *E. coli,* number per 100 mL.	MPN [5 7 13], multiple tube, or		9221 B.3–2014/9221 F–2014 [10 12 32].		
	Multiple tube/multiple well, or		9223 B–2016 [11]	991.15 [9]	Colilert® [11 15], Colilert-18®. [11 14 15]
	MF [2 5 6 7], two step, or	1103.1 [18]	9222 B–2015/9222 I–2015 [17], 9213 D–2007.	D5392–93 [8].	
	Single step	1603 [19], 1604 [20]			m-ColiBlue24® [16], KwikCount™ EC. [28 29]
4. Fecal streptococci, number per 100 mL.	MPN, 5 tube, 3 dilution, or	p. 139 [3]	9230 B–2013	B–0055–85 [4].	
	MF [2], or	p. 136 [3]	9230 C–2013 [30]		
	Plate count	p. 143 [3].			
5. Enterococci, number per 100 mL.	MPN [5 7], multiple tube/multiple well, or		9230 D–2013	D6503–99 [8]	Enterolert®. [11 21]
	MF [2 5 6 7] two step, or	1106.1 [22].	9230 C–2013 [30]	D5259–92 [8]	
	Single step, or	1600 [23]	9230 C–2013 [30].		
	Plate count	p. 143 [3].			
Protozoa					
6. *Cryptosporidium*	Filtration/IMS/FA	1622 [24], 1623 [25], 1623.1 [25 31].			
7. *Giardia*	Filtration/IMS/FA	1623 [25], 1623.1 [25 31].			

Table 1H notes:

[1] The method must be specified when results are reported.

[2] A 0.45-μm membrane filter (MF) or other pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with their growth.

[3] Microbiological Methods for Monitoring the Environment, Water and Wastes. EPA/600/8–78/017. 1978. US EPA.

[4] U.S. Geological Survey Techniques of Water-Resource Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples. 1989. USGS.

[5] Tests must be conducted to provide organism enumeration (density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, character, consistency, and anticipated organism density of the water sample.

[6] When the MF method has not been used previously to test waters with high turbidity, large numbers of noncoliform bacteria, or samples that may contain organisms stressed by chlorine, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[7] To assess the comparability of results obtained with individual methods, it is suggested that side-by-side tests be conducted across seasons of the year with the water samples routinely tested in accordance with the most current *Standard Methods for the Examination of Water and Wastewater* or EPA alternate test procedure (ATP) guidelines.

[8] Annual Book of ASTM Standards—Water and Environmental Technology. Section 11.02. 2000, 1999, 1996. ASTM International.

[9] Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. 1995. AOAC International.

[10] The multiple-tube fermentation test is used in 9221B.3–2014. Lactose broth may be used in lieu of lauryl tryptose broth (LTB), if at least 25 parallel tests are conducted between this broth and LTB using the water samples normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform using lactose broth is less than 10 percent. No requirement exists to run the completed phase on 10 percent of all total coliform-positive tubes on a seasonal basis.

[11] These tests are collectively known as defined enzyme substrate tests.

[12] After prior enrichment in a presumptive medium for total coliform using 9221B.3–2014, all presumptive tubes or bottles showing any amount of gas, growth or acidity within 48 h ± 3 h of incubation shall be submitted to 9221F–2014. Commercially available EC–MUG media or EC media supplemented in the laboratory with 50 μg/mL of MUG may be used.

[13] Samples shall be enumerated by the multiple-tube or multiple-well procedure. Using multiple-tube procedures, employ an appropriate tube and dilution configuration of the sample as needed and report the Most Probable Number (MPN). Samples tested with Colilert® may be enumerated with the multiple-well procedures, Quanti-Tray® or Quanti-Tray®/2000, and the MPN calculated from the table provided by the manufacturer.

[14] Colilert-18® is an optimized formulation of the Colilert® for the determination of total coliforms and *E. coli* that provides results within 18 h of incubation at 35 °C, rather than the 24 h required for the Colilert® test, and is recommended for marine water samples.

[15] Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, and Quanti-Tray®/2000 may be obtained from IDEXX Laboratories Inc.

[16] A description of the mColiBlue24® test may be obtained from Hach Company.

[17] Subject coliform positive samples determined by 9222B–2015 or other membrane filter procedure to 9222I–2015 using NA–MUG media.

[18] Method 1103.1: *Escherichia coli* (*E. coli*) in Water by Membrane Filtration Using membrane-Thermotolerant *Escherichia coli* Agar (mTEC), EPA–821–R–10–002. March 2010. US EPA.

[19] Method 1603: *Escherichia coli* (*E. coli*) in Water by Membrane Filtration Using Modified membrane-Thermotolerant *Escherichia coli* Agar (Modified mTEC), EPA–821–R–14–010. September 2014. US EPA.

[20] Method 1604: Total Coliforms and *Escherichia coli* (*E. coli*) in Water by Membrane Filtration by Using a Simultaneous Detection Technique (MI Medium), EPA 821–R–02–024. September 2002. US EPA.

[21] A description of the Enterolert® test may be obtained from IDEXX Laboratories Inc.

[22] Method 1106.1: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus-Esculin Iron Agar (mE–EIA), EPA–821–R–09–015. December 2009. US EPA.

[23] Method 1600: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (mEI), EPA–821–R–14–011. September 2014. US EPA.

[24] Method 1622 uses a filtration, concentration, immunomagnetic separation of oocysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the detection of *Cryptosporidium*. Method 1622: *Cryptosporidium* in Water by Filtration/IMS/FA, EPA–821–R–05–001. December 2005. US EPA.

[25] Methods 1623 and 1623.1 use a filtration, concentration, immunomagnetic separation of oocysts and cysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the simultaneous detection of *Cryptosporidium* and *Giardia* oocysts and cysts. Method 1623: *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA. EPA–821–R–05–002. December 2005. US EPA. Method 1623.1: *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA. EPA 816–R–12–001. January 2012. US EPA.

[26] On a monthly basis, at least ten blue colonies from positive samples must be verified using Lauryl Tryptose Broth and EC broth, followed by count adjustment based on these results; and representative non-blue colonies should be verified using Lauryl Tryptose Broth. Where possible, verifications should be done from randomized sample sources.

[27] On a monthly basis, at least ten sheen colonies from positive samples must be verified using Lauryl Tryptose Broth and brilliant green lactose bile broth, followed by count adjustment based on these results; and representative non-sheen colonies should be verified using Lauryl Tryptose Broth. Where possible, verifications should be done from randomized sample sources.

[28] A description of KwikCount™ EC may be obtained from Micrology Laboratories LLC.

[29] Approved for the analyses of *E. coli* in freshwater only.

[30] Verification of colonies by incubation of BHI agar at 10 ± 0.5 °C for 48 ± 3 h is optional. As per the Errata to the 23rd Edition of *Standard Methods for the Examination of Water and Wastewater* ''Growth on a BHI agar plate incubated at 10 ± 0.5 °C for 48 ± 3 h is further verification that the colony belongs to the genus Enterococcus.''

[31] Method 1623.1 includes updated acceptance criteria for IPR, OPR, and MS/MSD and clarifications and revisions based on the use of Method 1623 for years and technical support questions.

[32] 9221 F.2–2014 allows for simultaneous detection of *E. coli* and thermotolerant fecal coliforms by adding inverted vials to EC–MUG; the inverted vials collect gas produced by thermotolerant fecal coliforms.

(b) Certain material is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material may be inspected at EPA's Water Docket, EPA West, 1301 Constitution Avenue NW, Room 3334, Washington, DC 20004, (Telephone: 202–566–2426). It is also available for inspection at National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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(8) Office of Water, U.S. Environmental Protection Agency, Washington, DC (U.S. EPA). Available at *https://www.epa.gov/cwa-methods.*

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(ix) Method 1623.1: *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA. EPA 816–R–12–001. January 2012. U.S. EPA, Table IH, Note 25.

(x) Method 1627, Kinetic Test Method for the Prediction of Mine Drainage Quality. December 2011. EPA–821–R–09–002. Table IB, Note 69.

(xi) Method 1664, *n*-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated *n*-Hexane Extractable Material (SGT–HEM; Nonpolar Material) by Extraction and Gravimetry. Revision A, February 1999. EPA–821–R–98–002. Table IB, Notes 38 and 42.

(xii) Method 1664, *n*-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated *n*-Hexane Extractable Material (SGT–HEM; Nonpolar Material) by Extraction and Gravimetry, Revision B, February 2010. EPA–821–R–10–001. Table IB, Notes 38 and 42.

(xiii) Method 1669, Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels. July 1996. Table IB, Note 43.

(xiv) Method 1680: Fecal Coliforms in Sewage Sludge (Biosolids) by Multiple-Tube Fermentation using Lauryl Tryptose Broth (LTB) and EC Medium. September 2014. EPA–821–R–14–009.Table IA, Note 15.

(xv) Method 1681: Fecal Coliforms in Sewage Sludge (Biosolids) by Multiple-Tube Fermentation using A–1 Medium. July 2006. EPA 821–R–06–013. Table IA, Note 20.

(xvi) Method 1682: *Salmonella* in Sewage Sludge (Biosolids) by Modified Semisolid Rappaport-Vassiliadis (MSRV) Medium. September 2014. EPA 821–R–14–012. Table IA, Note 23.

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(xiv) 2540, solids. 2015. Table IB.

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(xxxix) 4500–CN^-, Cyanide. 2016. Table IB.

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(xliv) 4500–NO_3^-, Nitrogen (Nitrate). 2016. Table IB.

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(xlvi) 4500–O, Oxygen (Dissolved). 2016. Table IB.

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(lii) 5210, Biochemical Oxygen Demand (BOD). 2016. Table IB.

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(liv) 5310, Total Organic Carbon (TOC). 2014. Table IB.

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(lxvii) 9221 Multiple-Tube Fermentation Technique for Members of the Coliform Group. 2014. Table IA, Notes 12 and 14; Table IH, Notes 10 and 12.

(lxviii) 9222, Membrane Filter Technique for Members of the Coliform Group. 2015. Table IA; Table IH, Note 17.

(lxix) 9223 Enzyme Substrate Coliform Test. 2016. Table IA; Table IH.

(lxx) 9230 Fecal Enterococcus/ Streptococcus Groups. 2013. Table IA; Table IH.

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(v) ASTM D511–14, Standard Test Methods for Calcium and Magnesium in Water. November 2014. Table IB.

(vi) ASTM D512–12, Standard Test Methods for Chloride Ion in Water. July 2012. Table IB.

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(viii) ASTM D516–16, Standard Test Method for Sulfate Ion in Water, June 2016. Table IB.

(ix) ASTM D858–17, Standard Test Methods for Manganese in Water. June 2017. Table IB.

(x) ASTM D859–16, Standard Test Method for Silica in Water. June 2016. Table IB.

(xi) ASTM D888–12, Standard Test Methods for Dissolved Oxygen in Water. March 2012. Table IB.

(xii) ASTM D1067–16, Standard Test Methods for Acidity or Alkalinity of Water. June 2016. Table IB.

(xiii) ASTM D1068–15, Standard Test Methods for Iron in Water. October 2015. Table IB.

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(xv) ASTM D1126–17, Standard Test Method for Hardness in Water. December 2017. Table IB.

(xvi) ASTM D1179–16, Standard Test Methods for Fluoride Ion in Water. June 2016. Table IB.

(xvii) ASTM D1246–16, Standard Test Method for Bromide Ion in Water. June 2016. Table IB.

(xviii) ASTM D1252–06 (Reapproved 2012), Standard Test Methods for Chemical Oxygen Demand (Dichromate Oxygen Demand) of Water. June 2012. Table IB.

(xix) ASTM D1253–14, Standard Test Method for Residual Chlorine in Water. February 2014. Table IB.

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(xxi) ASTM D1426–15, Standard Test Methods for Ammonia Nitrogen in Water. April 2015. Table IB.

(xxii) ASTM D1687–17, Standard Test Methods for Chromium in Water. July 2017. Table IB.

(xxiii) ASTM D1688–17, Standard Test Methods for Copper in Water. July 2017. Table IB.

(xxiv) ASTM D1691–17, Standard Test Methods for Zinc in Water. June 2017. Table IB.

(xxv) ASTM D1783–01 (Reapproved 2012), Standard Test Methods for Phenolic Compounds in Water. August 2012. Table IB.

(xxvi) ASTM D1886–14, Standard Test Methods for Nickel in Water. November 2014. Table IB.

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(xxxi) ASTM D2036–09 (Reapproved 2015), Standard Test Methods for Cyanides in Water. July 2015. Table IB.

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(xxxiv) ASTM D2972–15, Standard Tests Method for Arsenic in Water. March 2015. Table IB.

(xxxv) ASTM D3223–17, Standard Test Method for Total Mercury in Water. June 2017. Table IB.

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(xxxvii) ASTM D3373–17, Standard Test Method for Vanadium in Water. June 2017. Table IB.

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(xxxix) ASTM D3557–17, Standard Test Method for Cadmium in Water. June 2017. Table IB.

(xl) ASTM D3558–15, Standard Test Method for Cobalt in Water. March 2015. Table IB.

(xli) ASTM D3559–15, Standard Test Methods for Lead in Water. October 2015. Table IB.

(xlii) ASTM D3590–17, Standard Test Methods for Total Kjeldahl Nitrogen in Water. June 2017. Table IB.

(xliii) ASTM D3645–15, Standard Test Methods for Beryllium in Water. March 2015. Table IB.

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(xlv) ASTM D3859–15, Standard Test Methods for Selenium in Water. April 2015. Table IB.

(xlvi) ASTM D3867–16, Standard Test Method for Nitrite-Nitrate in Water. June 2016. Table IB.

(xlvii) ASTM D4190–15, Standard Test Method for Elements in Water by Direct- Current Plasma Atomic Emission Spectroscopy. March 2015. Table IB.

(xlviii) ASTM D4282–15, Standard Test Method for Determination of Free Cyanide in Water and Wastewater by Microdiffusion. July 2015. Table IB.

(xlix) ASTM D4327–17, Standard Test Method for Anions in Water by Suppressed Ion Chromatography. December 2017. Table IB.

(l) ASTM D4382–18, Standard Test Method for Barium in Water, Atomic Absorption Spectrophotometry, Graphite Furnace. May 2018. Table IB.

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(lii) ASTM D4658–15, Standard Test Method for Sulfide Ion in Water. April 2015. Table IB.

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(liv) ASTM D4839–03 (Reapproved 2017), Standard Test Method for Total Carbon and Organic Carbon in Water by Ultraviolet, or Persulfate Oxidation, or Both, and Infrared Detection. December 2017. Table IB.

(lv) ASTM D5257–17, Standard Test Method for Dissolved Hexavalent Chromium in Water by Ion Chromatography. December 2017. Table IB.

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(lviii) ASTM D5673–16, Standard Test Method for Elements in Water by Inductively Coupled Plasma—Mass Spectrometry. February 2016. Table IB.

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(lxi) ASTM. D6508–15, Standard Test Method for Determination of Dissolved Inorganic Anions in Aqueous Matrices Using Capillary Ion Electrophoresis and Chromate Electrolyte. October 2015. Table IB, Note 54.

(lxii) ASTM. D6888–16, Standard Test Method for Available Cyanide with Ligand Displacement and Flow Injection Analysis (FIA) Utilizing Gas Diffusion Separation and Amperometric Detection. June 2016. Table IB, Note 59.

(lxiii) ASTM. D6919–17, Standard Test Method for Determination of Dissolved Alkali and Alkaline Earth Cations and Ammonium in Water and Wastewater by Ion Chromatography. June 2017. Table IB.

(lxiv) ASTM. D7065–17, Standard Test Method for Determination of Nonylphenol, Bisphenol A, *p-tert*-Octylphenol, Nonylphenol Monoethoxylate and Nonylphenol Diethoxylate in Environmental Waters by Gas Chromatography Mass Spectrometry. January 2018. Table IC.

(lxv) ASTM. D7237–15a, Standard Test Method for Free Cyanide with Flow Injection Analysis (FIA) Utilizing Gas Diffusion Separation and Amperometric Detection. June 2015. Table IB.

(lxvi) ASTM. D7284–13 (Reapproved 2017), Standard Test Method for Total Cyanide in Water by Micro Distillation followed by Flow Injection Analysis with Gas Diffusion Separation and Amperometric Detection. July 2017. Table IB.

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(lxviii) ASTM. D7511–12 (Reapproved 2017), Standard Test Method for Total Cyanide by Segmented Flow Injection Analysis, In-Line Ultraviolet Digestion and Amperometric Detection. July 2017. Table IB.

(lxix) ASTM. D7573–09 (Reapproved 2017), Standard Test Method for Total Carbon and Organic Carbon in Water by High Temperature Catalytic Combustion and Infrared Detection, February 2017. Table IB.

(lxx) ASTM D7781–14 Standard Test Method for Nitrate-Nitrite in Water by Nitrate Reductase, May 2014. Table IB.

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(19) FIAlab Instruments, Inc., 2151 N. Northlake Way, Seattle, WA 98103. Telephone: 425–376–0450.

(i) Method 100, Determination of Inorganic Ammonia by Continuous Flow Gas Diffusion and Fluorescence Detector Analysis, April 4, 2018. Table IB, Note 82.

(ii) [Reserved]

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(26) MACHEREY-NAGEL GmbH and Co., 2850 Emrick Blvd. Bethlehem, PA 18020. Telephone: 888–321–6224.

(i) Method 036/038 NANOCOLOR® COD LR/HR, Spectrophotometric Measurement of Chemical Oxygen Demand in Water and Wastewater, Revision 1.5, May 2018. Table IB, Note 83.

(ii) [Reserved]

(27) Micrology Laboratories, LLC, 1303 Eisenhower Drive, Goshen, IN 46526. Telephone: 574–533–3351.

(i) KwikCount™ EC Medium *E. coli* enzyme substrate test, Rapid Detection of *E. coli* in Beach Water By KwikCount™ EC Membrane Filtration. 2014. Table IH, Notes 28 and 29.

(ii) [Reserved]

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(ii) Determination of Heat Purgeable and Ambient Purgeable Volatile Organic Compounds in Water by Gas Chromatography/Mass Spectrometry. Chapter 12 of Section B, Methods of the National Water Quality Laboratory, of Book 5, Laboratory Analysis. 2016.

(iii) Methods for Determination of Inorganic Substances in Water and Fluvial Sediments, editors, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A1. 1979. Table IB, Note 8.

(iv) Methods for Determination of Inorganic Substances in Water and Fluvial Sediments, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A1. 1989. Table IB, Notes 2 and 79.

(v) Methods for the Determination of Organic Substances in Water and Fluvial Sediments. Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A3. 1987. Table IB, Note 24; Table ID, Note 4.

(vi) OFR 76–177, Selected Methods of the U.S. Geological Survey of Analysis of Wastewaters. 1976. Table IE, Note 2.

(vii) OFR 91–519, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Organonitrogen Herbicides in Water by Solid-Phase Extraction and Capillary-Column Gas Chromatography/Mass Spectrometry With Selected-Ion Monitoring. 1992. Table ID, Note 14.

(viii) OFR 92–146, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Total Phosphorus by a Kjeldahl Digestion Method and an Automated Colorimetric Finish That Includes Dialysis. 1992. Table IB, Note 48.

(ix) OFR 93–125, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments. 1993. Table IB, Note 51 and 80; Table IC, Note 9.

(x) OFR 93–449, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Chromium in Water by Graphite Furnace Atomic Absorption Spectrophotometry. 1993. Table IB, Note 46.

(xi) OFR 94–37, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Triazine and Other Nitrogen-containing Compounds by Gas Chromatography with Nitrogen Phosphorus Detectors. 1994. Table ID, Note 9.

(xii) OFR 95–181, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Pesticides in Water by C–18 Solid-Phase Extraction and Capillary-Column Gas Chromatography/Mass Spectrometry With Selected-Ion Monitoring. 1995. Table ID, Note 11.

(xiii) OFR 97–198, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Molybdenum in Water by Graphite Furnace Atomic Absorption Spectrophotometry. 1997. Table IB, Note 47.

(xiv) OFR 97–829, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of 86 Volatile Organic Compounds in Water by Gas Chromatography/Mass Spectrometry, Including Detections Less Than Reporting Limits. 1999. Table IC, Note 13.

(xv) OFR 98–165, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Elements in Whole-Water Digests Using Inductively Coupled Plasma-Optical Emission Spectrometry and Inductively Coupled Plasma-Mass Spectrometry. 1998. Table IB, Notes 50 and 81.

(xvi) OFR 98–639, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Arsenic and Selenium in Water and Sediment by Graphite Furnace—Atomic Absorption Spectrometry. 1999. Table IB, Note 49.

(xvii) OFR 00–170, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Ammonium Plus Organic Nitrogen by a Kjeldahl Digestion Method and an Automated Photometric Finish that Includes Digest Cleanup by Gas Diffusion. 2000. Table IB, Note 45.

(xviii) Techniques and Methods Book 5–B1, Determination of Elements in Natural-Water, Biota, Sediment and Soil Samples Using Collision/Reaction Cell Inductively Coupled Plasma-Mass Spectrometry. Chapter 1, Section B, Methods of the National Water Quality Laboratory, Book 5, Laboratory Analysis. 2006. Table IB, Note 70.

(xix) U.S. Geological Survey Techniques of Water-Resources Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples. 1989. Table IA, Note 4; Table IH, Note 4.

(xx) Water-Resources Investigation Report 01–4098, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Moderate-Use Pesticides and Selected Degradates in Water by C–18 Solid-Phase Extraction and Gas Chromatography/Mass Spectrometry. 2001. Table ID, Note 13.

(xxi) Water-Resources Investigations Report 01–4132, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Organic Plus Inorganic Mercury in Filtered and Unfiltered Natural Water With Cold Vapor-Atomic Fluorescence Spectrometry. 2001. Table IB, Note 71.

(xxii) Water-Resources Investigation Report 01–4134, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Pesticides in Water by Graphitized Carbon-Based Solid-Phase Extraction and High-Performance Liquid Chromatography/Mass Spectrometry. 2001. Table ID, Note 12.

(xxiii) Water Temperature—Influential Factors, Field Measurement and Data Presentation, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 1, Chapter D1. 1975. Table IB, Note 32.

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TABLE II—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES

Parameter number/name	Container [1]	Preservation [2 3]	Maximum holding time [4]
Table IA—Bacterial Tests			
1–4. Coliform, total, fecal, and *E. coli*.	PA, G	Cool, <10 °C, 0.008% $Na_2S_2O_3$ [5]	8 hours.[22 23]
5. Fecal streptococci	PA, G	Cool, <10 °C, 0.008% $Na_2S_2O_3$ [5]	8 hours.[22]
6. Enterococci	PA, G	Cool, <10 °C, 0.008% $Na_2S_2O_3$ [5]	8 hours.[22]
7. *Salmonella*	PA, G	Cool, <10 °C, 0.008% $Na_2S_2O_3$ [5]	8 hours.[22]
Table IA—Aquatic Toxicity Tests			
8–11. Toxicity, acute and chronic	P, FP, G	Cool, ≤6 °C [16]	36 hours.
Table IB—Inorganic Tests			
1. Acidity	P, FP, G	Cool, ≤6 °C [18]	14 days.
2. Alkalinity	P, FP, G	Cool, ≤6 °C [18]	14 days.
4. Ammonia	P, FP, G	Cool, ≤6 °C [18], H_2SO_4 to pH <2	28 days.
9. Biochemical oxygen demand	P, FP, G	Cool, ≤6 °C [18]	48 hours.
10. Boron	P, FP, or Quartz	HNO_3 to pH <2	6 months.
11. Bromide	P, FP, G	None required	28 days.
14. Biochemical oxygen demand, carbonaceous.	P, FP G	Cool, ≤6 °C [18]	48 hours.
15. Chemical oxygen demand	P, FP, G	Cool, ≤6 °C [18], H_2SO_4 to pH <2	28 days.
16. Chloride	P, FP, G	None required	28 days.
17. Chlorine, total residual	P, G	None required	Analyze within 15 minutes.
21. Color	P, FP, G	Cool, ≤6 °C [18]	48 hours.
23–24. Cyanide, total or available (or CATC) and free.	P, FP, G	Cool, ≤6 °C [18], NaOH to pH >10 [5 6], reducing agent if oxidizer present.	14 days.
25. Fluoride	P	None required	28 days.
27. Hardness	P, FP, G	HNO_3 or H_2SO_4 to pH <2	6 months.
28. Hydrogen ion (pH)	P, FP, G	None required	Analyze within 15 minutes.
31, 43. Kjeldahl and organic N	P, FP, G	Cool, ≤6 °C [18], H_2SO_4 to pH <2	28 days.
Table IB—Metals [7]			
18. Chromium VI	P, FP, G	Cool, ≤6 °C [18], pH = 9.3–9.7 [20]	28 days.
35. Mercury (CVAA)	P, FP, G	HNO_3 to pH <2	28 days.
35. Mercury (CVAFS)	FP, G; and FP-lined cap [17]	5 mL/L 12N HCl or 5 mL/L BrCl [17]	90 days.[17]
3, 5–8, 12, 13, 19, 20, 22, 26, 29, 30, 32–34, 36, 37, 45, 47, 51, 52, 58–60, 62, 63, 70–72, 74, 75. Metals, except boron, chromium VI, and mercury.	P, FP, G	HNO_3 to pH <2, or at least 24 hours prior to analysis [19].	6 months.
38. Nitrate	P, FP, G	Cool, ≤6 °C [18]	48 hours.
39. Nitrate-nitrite	P, FP, G	Cool, ≤6 °C [18], H_2SO_4 to pH <2	28 days.
40. Nitrite	P, FP, G	Cool, ≤6 °C [18]	48 hours.
41. Oil and grease	G	Cool to ≤6 °C [18], HCl or H_2SO_4 to pH <2.	28 days.
42. Organic Carbon	P, FP, G	Cool to ≤6 °C [18], HCl, H_2SO_4, or H_3PO_4 to pH <2.	28 days.
44. Orthophosphate	P, FP, G	Cool, to ≤6 °C [18 24]	Filter within 15 minutes; Analyze within 48 hours.
46. Oxygen, Dissolved Probe	G, Bottle and top	None required	Analyze within 15 minutes.
47. Winkler	G, Bottle and top	Fix on site and store in dark	8 hours.
48. Phenols	G	Cool, ≤6 °C [18], H_2SO_4 to pH <2	28 days.
49. Phosphorus (elemental)	G	Cool, ≤6 °C [18]	48 hours.
50. Phosphorus, total	P, FP, G	Cool, ≤6 °C [18], H_2SO_4 to pH <2	28 days.
53. Residue, total	P, FP, G	Cool, ≤6 °C [18]	7 days.
54. Residue, Filterable (TDS)	P, FP, G	Cool, ≤6 °C [18]	7 days.
55. Residue, Nonfilterable (TSS)	P, FP, G	Cool, ≤6 °C [18]	7 days.
56. Residue, Settleable	P, FP, G	Cool, ≤6 °C [18]	48 hours.
57. Residue, Volatile	P, FP, G	Cool, ≤6 °C [18]	7 days.
61. Silica	P or Quartz	Cool, ≤6 °C [18]	28 days.
64. Specific conductance	P, FP, G	Cool, ≤6 °C [18]	28 days.
65. Sulfate	P, FP, G	Cool, ≤6 °C [18]	28 days.
66. Sulfide	P, FP, G	Cool, ≤6 °C [18], add zinc acetate plus sodium hydroxide to pH >9.	7 days.
67. Sulfite	P, FP, G	None required	Analyze within 15 minutes.
68. Surfactants	P, FP, G	Cool, ≤6 °C [18]	48 hours.
69. Temperature	P, FP, G	None required	Analyze within 15 minutes.
73. Turbidity	P, FP, G	Cool, ≤6 °C [18]	48 hours.

TABLE II—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES—Continued

Parameter number/name	Container [1]	Preservation [2 3]	Maximum holding time [4]
Table IC—Organic Tests [8]			
13, 18–20, 22, 24, 25, 27, 28, 34–37, 39–43, 45–47, 56, 76, 104, 105, 108–111, 113. Purgeable Halocarbons.	G, FP-lined septum	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$ [5], HCl to pH 2 [9].	14 days.[9]
26. 2-Chloroethylvinyl ether	G, FP-lined septum	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$ [5]	14 days.
6, 57, 106. Purgeable aromatic hydrocarbons.	G, FP-lined septum	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$ [5], HCl to pH 2 [9].	14 days.[9]
3, 4. Acrolein and acrylonitrile	G, FP-lined septum	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$, pH to 4–5 [10].	14 days.[10]
23, 30, 44, 49, 53, 77, 80, 81, 98, 100, 112. Phenols [11].	G, FP-lined cap	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$	7 days until extraction, 40 days after extraction.
7, 38. Benzidines [11 12]	G, FP-lined cap	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$ [5]	7 days until extraction.[13]
14, 17, 48, 50–52. Phthalate esters [11].	G, FP-lined cap	Cool, ≤6 °C [18]	7 days until extraction, 40 days after extraction.
82–84. Nitrosamines [11 14]	G, FP-lined cap	Cool, ≤6 °C [18], store in dark, 0.008% $Na_2S_2O_3$ [5].	7 days until extraction, 40 days after extraction.
88–94. PCBs [11]	G, FP-lined cap	Cool, ≤6 °C [18]	1 year until extraction, 1 year after extraction.
54, 55, 75, 79. Nitroaromatics and isophorone [11].	G, FP-lined cap	Cool, ≤6 °C [18], store in dark, 0.008% $Na_2S_2O_3$ [5].	7 days until extraction, 40 days after extraction.
1, 2, 5, 8–12, 32, 33, 58, 59, 74, 78, 99, 101. Polynuclear aromatic hydrocarbons [11].	G, FP-lined cap	Cool, ≤6 °C [18], store in dark, 0.008% $Na_2S_2O_3$ [5].	7 days until extraction, 40 days after extraction.
15, 16, 21, 31, 87. Haloethers [11]	G, FP-lined cap	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$ [5]	7 days until extraction, 40 days after extraction.
29, 35–37, 63–65, 73, 107. Chlorinated hydrocarbons [11].	G, FP-lined cap	Cool, ≤6 °C [18]	7 days until extraction, 40 days after extraction.
60–62, 66–72, 85, 86, 95–97, 102, 103. CDDs/CDFs [11].	G	See footnote 11	See footnote 11.
Aqueous Samples: Field and Lab Preservation.	G	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$ [5], pH <9.	1 year.
Solids and Mixed-Phase Samples: Field Preservation.	G	Cool, ≤6 °C [18]	7 days.
Tissue Samples: Field Preservation.	G	Cool, ≤6 °C [18]	24 hours.
Solids, Mixed-Phase, and Tissue Samples: Lab Preservation.	G	Freeze, ≤ −10 °C	1 year.
114–118. Alkylated phenols	G	Cool, <6 °C, H_2SO_4 to pH <2	28 days until extraction, 40 days after extraction.
119. Adsorbable Organic Halides (AOX).	G	Cool, <6 °C, 0.008% $Na_2S_2O_3$, HNO_3 to pH <2.	Hold *at least* 3 days, but not more than 6 months.
120. Chlorinated Phenolics	G, FP-lined cap	Cool, <6 °C, 0.008% $Na_2S_2O_3$, H_2SO_4 to pH <2.	30 days until acetylation, 30 days after acetylation.
Table ID—Pesticides Tests			
1–70. Pesticides [11]	G, FP-lined cap	Cool, ≤6 °C [18], pH 5–9 [15]	7 days until extraction, 40 days after extraction.
Table IE—Radiological Tests			
1–5. Alpha, beta, and radium	P, FP, G	HNO_3 to pH <2	6 months.
Table IH—Bacterial Tests			
1, 2. Coliform, total, fecal	PA, G	Cool, <10 °C, 0.008% $Na_2S_2O_3$ [5]	8 hours.[22]
3. *E. coli*	PA, G	Cool, <10 °C, 0.008% $Na_2S_2O_3$ [5]	8 hours.[22]
4. Fecal streptococci	PA, G	Cool, <10 °C, 0.008% $Na_2S_2O_3$ [5]	8 hours.[22]
5. Enterococci	PA, G	Cool, <10 °C, 0.008% $Na_2S_2O_3$ [5]	8 hours.[22]
Table IH—Protozoan Tests			
6. *Cryptosporidium*	LDPE; field filtration	1–10 °C	96 hours.[21]
7. *Giardia*	LDPE; field filtration	1–10 °C	96 hours.[21]

[1] "P" is for polyethylene; "FP" is fluoropolymer (polytetrafluoroethylene [PTFE]; Teflon®), or other fluoropolymer, unless stated otherwise in this Table II; "G" is glass; "PA" is any plastic that is made of a sterilizable material (polypropylene or other autoclavable plastic); "LDPE" is low density polyethylene.

[2] Except where noted in this Table II and the method for the parameter, preserve each grab sample within 15 minutes of collection. For a composite sample collected with an automated sample (*e.g.,* using a 24-hour composite sample; see 40 CFR 122.21(g)(7)(i) or 40 CFR part 403, appendix E), refrigerate the sample at ≤6 °C during collection unless specified otherwise in this Table II or in the method(s). For a composite sample to be split into separate aliquots for preservation and/or analysis, maintain the sample at ≤6 °C, unless specified otherwise in this Table II or in the method(s), until collection, splitting, and preservation is completed. Add the preservative to the sample container prior to sample collection when the preservative will not compromise the integrity of a grab sample, a composite sample, or aliquot split from a composite sample within 15 minutes of collection. If a composite measurement is required but a composite sample would compromise sample integrity, individual grab samples must be collected at prescribed time intervals (*e.g.,* 4 samples over the course of a day, at 6-hour intervals). Grab samples must be analyzed separately and the concentrations averaged. Alternatively, grab samples may be collected in the field and composited in the laboratory if the compositing procedure produces results equivalent to results produced by arithmetic averaging of results of analysis of individual grab samples. For examples of laboratory compositing procedures, see EPA Method 1664 Rev. A (oil and grease) and the procedures at 40 CFR 141.24(f)(14)(iv) and (v) (volatile organics).

[3] When any sample is to be shipped by common carrier or sent via the U.S. Postal Service, it must comply with the Department of Transportation Hazardous Materials Regulations (49 CFR part 172). The person offering such material for transportation is responsible for ensuring such compliance. For the preservation requirement of Table II, the Office of Hazardous Materials, Materials Transportation Bureau, Department of Transportation has determined that the Hazardous Materials Regulations do not apply to the following materials: Hydrochloric acid (HCl) in water solutions at concentrations of 0.04% by weight or less (pH about 1.96 or greater; Nitric acid (HNO_3) in water solutions at concentrations of 0.15% by weight or less (pH about 1.62 or greater); Sulfuric acid (H_2SO_4) in water solutions at concentrations of 0.35% by weight or less (pH about 1.15 or greater); and Sodium hydroxide (NaOH) in water solutions at concentrations of 0.080% by weight or less (pH about 12.30 or less).

[4] Samples should be analyzed as soon as possible after collection. The times listed are the maximum times that samples may be held before the start of analysis and still be considered valid. Samples may be held for longer periods only if the permittee or monitoring laboratory have data on file to show that, for the specific types of samples under study, the analytes are stable for the longer time, and has received a variance from the Regional ATP Coordinator under § 136.3(e). For a grab sample, the holding time begins at the time of collection. For a composite sample collected with an automated sampler (*e.g.,* using a 24-hour composite sampler; see 40 CFR 122.21(g)(7)(i) or 40 CFR part 403, appendix E), the holding time begins at the time of the end of collection of the composite sample. For a set of grab samples composited in the field or laboratory, the holding time begins at the time of collection of the last grab sample in the set. Some samples may not be stable for the maximum time period given in the table. A permittee or monitoring laboratory is obligated to hold the sample for a shorter time if it knows that a shorter time is necessary to maintain sample stability. See § 136.3(e) for details. The date and time of collection of an individual grab sample is the date and time at which the sample is collected. For a set of grab samples to be composited, and that are all collected on the same calendar date, the date of collection is the date on which the samples are collected. For a set of grab samples to be composited, and that are collected across two calendar dates, the date of collection is the dates of the two days; *e.g.,* November 14–15. For a composite sample collected automatically on a given date, the date of collection is the date on which the sample is collected. For a composite sample collected automatically, and that is collected across two calendar dates, the date of collection is the dates of the two days; *e.g.,* November 14–15. For static-renewal toxicity tests, each grab or composite sample may also be used to prepare test solutions for renewal at 24 h, 48 h, and/or 72 h after first use, if stored at 0–6 °C, with minimum head space.

[5] ASTM D7365–09a specifies treatment options for samples containing oxidants (*e.g.,* chlorine) for cyanide analyses. Also, Section 9060A of Standard Methods for the Examination of Water and Wastewater (23rd edition) addresses dechlorination procedures for microbiological analyses.

[6] Sampling, preservation and mitigating interferences in water samples for analysis of cyanide are described in ASTM D7365–09a (15). There may be interferences that are not mitigated by the analytical test methods or D7365–09a (15). Any technique for removal or suppression of interference may be employed, provided the laboratory demonstrates that it more accurately measures cyanide through quality control measures described in the analytical test method. Any removal or suppression technique not described in D7365–09a (15) or the analytical test method must be documented along with supporting data.

[7] For dissolved metals, filter grab samples within 15 minutes of collection and before adding preservatives. For a composite sample collected with an automated sampler (*e.g.,* using a 24-hour composite sampler; see 40 CFR 122.21(g)(7)(i) or 40 CFR part 403, appendix E), filter the sample within 15 minutes after completion of collection and before adding preservatives. If it is known or suspected that dissolved sample integrity will be compromised during collection of a composite sample collected automatically over time (*e.g.,* by interchange of a metal between dissolved and suspended forms), collect and filter grab samples to be composited (footnote 2) in place of a composite sample collected automatically.

[8] Guidance applies to samples to be analyzed by GC, LC, or GC/MS for specific compounds.

[9] If the sample is not adjusted to pH 2, then the sample must be analyzed within seven days of sampling.

[10] The pH adjustment is not required if acrolein will not be measured. Samples for acrolein receiving no pH adjustment must be analyzed within 3 days of sampling.

[11] When the extractable analytes of concern fall within a single chemical category, the specified preservative and maximum holding times should be observed for optimum safeguard of sample integrity (*i.e.,* use all necessary preservatives and hold for the shortest time listed). When the analytes of concern fall within two or more chemical categories, the sample may be preserved by cooling to ≤6 °C, reducing residual chlorine with 0.008% sodium thiosulfate, storing in the dark, and adjusting the pH to 6–9; samples preserved in this manner may be held for seven days before extraction and for forty days after extraction. Exceptions to this optional preservation and holding time procedure are noted in footnote 5 (regarding the requirement for thiosulfate reduction), and footnotes 12, 13 (regarding the analysis of benzidine).

[12] If 1,2-diphenylhydrazine is likely to be present, adjust the pH of the sample to 4.0 ± 0.2 to prevent rearrangement to benzidine.

[13] Extracts may be stored up to 30 days at <0 °C.

[14] For the analysis of diphenylnitrosamine, add 0.008% $Na_2S_2O_3$ and adjust pH to 7–10 with NaOH within 24 hours of sampling.

[15] The pH adjustment may be performed upon receipt at the laboratory and may be omitted if the samples are extracted within 72 hours of collection. For the analysis of aldrin, add 0.008% $Na_2S_2O_3$.

[16] Place sufficient ice with the samples in the shipping container to ensure that ice is still present when the samples arrive at the laboratory. However, even if ice is present when the samples arrive, immediately measure the temperature of the samples and confirm that the preservation temperature maximum has not been exceeded. In the isolated cases where it can be documented that this holding temperature cannot be met, the permittee can be given the option of on-site testing or can request a variance. The request for a variance should include supportive data which show that the toxicity of the effluent samples is not reduced because of the increased holding temperature. Aqueous samples must not be frozen. Hand-delivered samples used on the day of collection do not need to be cooled to 0 to 6 °C prior to test initiation.

[17] Samples collected for the determination of trace level mercury (<100 ng/L) using EPA Method 1631 must be collected in tightly-capped fluoropolymer or glass bottles and preserved with BrCl or HCl solution within 48 hours of sample collection. The time to preservation may be extended to 28 days if a sample is oxidized in the sample bottle. A sample collected for dissolved trace level mercury should be filtered in the laboratory within 24 hours of the time of collection. However, if circumstances preclude overnight shipment, the sample should be filtered in a designated clean area in the field in accordance with procedures given in Method 1669. If sample integrity will not be maintained by shipment to and filtration in the laboratory, the sample must be filtered in a designated clean area in the field within the time period necessary to maintain sample integrity. A sample that has been collected for determination of total or dissolved trace level mercury must be analyzed within 90 days of sample collection.

[18] Aqueous samples must be preserved at ≤6 °C, and should not be frozen unless data demonstrating that sample freezing does not adversely impact sample integrity is maintained on file and accepted as valid by the regulatory authority. Also, for purposes of NPDES monitoring, the specification of "≤ °C" is used in place of the "4 °C" and "<4 °C" sample temperature requirements listed in some methods. It is not necessary to measure the sample temperature to three significant figures (1/100th of 1 degree); rather, three significant figures are specified so that rounding down to 6 °C may not be used to meet the ≤6 °C requirement. The preservation temperature does not apply to samples that are analyzed immediately (less than 15 minutes).

[19] An aqueous sample may be collected and shipped without acid preservation. However, acid must be added at least 24 hours before analysis to dissolve any metals that adsorb to the container walls. If the sample must be analyzed within 24 hours of collection, add the acid immediately (see footnote 2). Soil and sediment samples do not need to be preserved with acid. The allowances in this footnote supersede the preservation and holding time requirements in the approved metals methods.

[20] To achieve the 28-day holding time, use the ammonium sulfate buffer solution specified in EPA Method 218.6. The allowance in this footnote supersedes preservation and holding time requirements in the approved hexavalent chromium methods, unless this supersession would compromise the measurement, in which case requirements in the method must be followed.

[21] Holding time is calculated from time of sample collection to elution for samples shipped to the laboratory in bulk and calculated from the time of sample filtration to elution for samples filtered in the field.

[22] Sample analysis should begin as soon as possible after receipt; sample incubation must be started no later than 8 hours from time of collection.

[23] For fecal coliform samples for sewage sludge (biosolids) only, the holding time is extended to 24 hours for the following sample types using either EPA Method 1680 (LTB–EC) or 1681 (A–1): Class A composted, Class B aerobically digested, and Class B anaerobically digested.

[24] The immediate filtration requirement in orthophosphate measurement is to assess the dissolved or bio-available form of orthophosphorus (*i.e.,* that which passes through a 0.45-micron filter), hence the requirement to filter the sample immediately upon collection (*i.e.,* within 15 minutes of collection).

■ 3. Amend § 136.6 by adding paragraph (b)(4)(xxiii) to read as follows:

§ 136.6 Method modifications and analytical requirements.

* * * * *

(b) * * *

(4) * * *

(xxiii) When analyzing metals by inductively coupled plasma-atomic emission spectroscopy, inductively coupled plasma-mass spectrometry, and stabilized temperature graphite furnace atomic absorption, closed-vessel microwave digestion of wastewater samples is allowed as alternative heating source for Method 200.2—''Sample Preparation Procedure for Spectrochemical Determination of Total Recoverable Elements'' for the following elements: Aluminum, antimony, arsenic, barium, beryllium, boron, cadmium, calcium, chromium, cobalt, copper, iron, lead, magnesium, manganese, molybdenum, nickel, potassium, selenium, silver, sodium, thallium, tin, titanium, vanadium, zinc, provided the performance specifications in the relevant determinative method are met. (Note that this list does not include Mercury.) Each laboratory determining total recoverable metals is required to operate a formal quality control (QC) program. The minimum requirements include initial demonstration of capability, method detection limit (MDL), analysis of reagent blanks, fortified blanks, matrix spike samples, and blind proficiency testing samples, as continuing quality control checks on performance. The laboratory is required to maintain performance records on file that define the quality of the data generated.

* * * * *

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